

JOURNAL
OF THE
SENATE
OF THE
STATE OF ALABAMA
FIRST EXTRAORDINARY
SESSION OF 1992

HELD IN THE CITY OF MONTGOMERY
COMMENCING MONDAY, JANUARY 27, 1992



Vol. 1

WITH AN INDEX PREPARED BY THE
SECRETARY OF THE SENATE

CONTENT

To facilitate research in the Senate Journal, the following information is included at the end for your convenience:

1. Legislative roster, listing names and addresses of all members of the current Legislature by district;
2. A listing of legislative days, with calendar dates and pages on which each day begins;
3. A topic index of general bills listed alphabetically by subject matter;
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5. A topic index of resolutions;
6. A miscellaneous index, including all items not categorized as bills or resolutions;
7. A Senate resolution index listed alphabetically by sponsor;
8. A sponsor index, listing all Senate bills and resolutions alphabetically by author;
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**JOURNAL
OF THE
SENATE
OF THE
STATE OF ALABAMA
FIRST EXTRAORDINARY SESSION
OF 1992**

**FIRST LEGISLATIVE DAY
MONDAY, JANUARY 27, 1992**

BE IT REMEMBERED, that on the 27th day of January, A.D., 1992, Guy Hunt, Governor of the State of Alabama, issued his proclamation in words and figures as follows, to-wit:

**STATE OF ALABAMA
PROCLAMATION
BY THE GOVERNOR**

WHEREAS, there exists an extraordinary occasion in the State of Alabama, which demands the convening of the Legislature of Alabama, in extraordinary session, as prescribed by Article V, Section 122 of the Constitution of Alabama of 1901.

NOW, THEREFORE, I, Guy Hunt as Governor of the State of Alabama, do hereby proclaim and direct that the Legislature of the State of Alabama shall convene in extraordinary session at the seat of government, Alabama State House, in Montgomery, Alabama at 5:30 p.m. on January 27, 1992 and do hereby designate the following subjects and matters, which I, as Governor, deem necessary to be considered and acted upon by said Legislature, in extraordinary session assembled:

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1. Legislation to provide for the revision of the Alabama Workers' Compensation Law, Section 25-5-1 et seq., Code of Alabama, 1975.

IN WITNESS WHEREOF, I have hereunto set my hand as Governor of the State of Alabama and caused this Proclamation to be attested by the Secretary of State at the State House, in the City of Montgomery, on this the 16th day of January, 1992.

GUY HUNT,
Governor.

ATTEST:

BILLY JOE CAMP,
Secretary of State.

Pursuant to such proclamation, at the hour of 5:30 P.M. on Monday, January 27, 1992, the Senators in the Legislature of Alabama assembled in the Senate Chamber.

The Senate was called to order by the Honorable James E. Folsom, Jr., Lieutenant Governor and President and Presiding Officer of the Senate. McDowell Lee, Secretary, was present and acted as such according to law.

PRAYER

The Session was opened with prayer by Senator Albert Lipscomb, Thirty-second Senatorial District.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Bryan A. Nelson, Bradshaw High School, Florence, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

RESOLUTIONS

Senator deGraffenried offered the following Senate Joint Resolution, to-wit:

SJR 1. COMMITTEE TO NOTIFY GOVERNOR AND ASCERTAIN DESIRE FOR JOINT SESSION.

BE IT RESOLVED BY THE SENATE, THE HOUSE OF REPRESENTATIVES CONCURRING, That a committee of three members of the Senate, to be named by the President and Presiding Officer of the Senate, and three members of the House, to be named by the Speaker of the House, be appointed to notify the Governor that the Legislature is now in session and is ready for the transaction of business.

BE IT FURTHER RESOLVED, That said Committee ascertain from His Excellency if he desires to address a joint session, to further ascertain the time most suitable to him for such address.

On motion of Senator deGraffenried, the Rules were suspended and the Resolution was adopted by the Senate.

And the President and Presiding Officer of the Senate appointed as Committee on part of the Senate to notify the Governor, Senators Waggoner, Hale, and Bedsole.

Senator deGraffenried then offered the following Senate Joint Resolution, to-wit:

SJR 2. COMMITTEE APPOINTED TO ESCORT GOVERNOR TO JOINT SESSION OF THE LEGISLATURE.

BE IT RESOLVED BY THE SENATE OF ALABAMA, THE HOUSE OF REPRESENTATIVES CONCURRING, That a joint session of the House and Senate be held at 6 o'clock P.M. on January 27, 1992, for the purpose of hearing the message of the Honorable Guy Hunt, Governor of Alabama.

AND BE IT FURTHER RESOLVED, That a committee of three from the Senate, to be named by the Presiding Officer of the Senate, and three from the House, to be named by the Speaker of the House, be appointed to wait upon the Governor and advise him for the purpose of receiving his message, and that said committee also serve as a committee to escort the Governor to the House for the joint session.

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On motion of Senator deGraffenried, the Rules were suspended and the Resolution was adopted by the Senate.

The President and Presiding Officer of the Senate appointed as Committee on part of the Senate to escort the Governor, Senators Ellis, Lipscomb, and Dial.

MOTION TO ADJOURN

Senator deGraffenried moved that when the Senate adjourns today, it adjourn to meet again on Tuesday, January 28, 1992, at 12 o'clock Noon.

Senator Corbett offered a substitute motion that when the Senate adjourns today, it adjourn to meet again on Tuesday, January 28, 1992, at 2 o'clock P.M., which motion was adopted.

MESSAGE FROM THE HOUSE

Mr. President:

I have been directed by the House to advise the Senate that the House is now in session and is ready for the transaction of public business.

GREG PAPPAS,
Clerk.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senator Denton:

S. 1. To amend Section 11-6-23, Code of Alabama 1975, relating to the state Highway Department's participation in the salary of county engineer trainees.

Committee on Governmental
Affairs/Local Government

By Senator Smith (B):

S. 2. To revise the procedural requirements for increasing

the number of city council districts in a Class 3 municipality.

Committee on Public Welfare

By Senator Smith (B):

S. 3. Permitting members of a board of education of a Class 3 municipality to be elected from districts, and at times, as determined by the governing body of the municipality.

Committee on Public Welfare

By Senator Hale (With Notice and Proof):

S. 4. Relating to the Eighth Judicial Circuit; providing a county retirement for circuit judges; and providing for the election to participate in the retirement benefits under this act.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 4, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Parsons:

S. 5. To amend Sections 22-27-6, Code of Alabama 1975; relating to exempting certain property owners from a portion of the annual subscription fees for solid waste collection and disposal services.

Committee on Finance
and Taxation

By Senator Parsons:

S. 6. Regulating air travel by public officers and employees; providing for sale of state owned aircraft and disposition of the proceeds from the sale.

Committee on Governmental
Affairs/State Administration

By Senators Wilson and Bailey:

S. 7. Relating to extending the end of the 1992 deer hunting

season two days.

Committee on Public Welfare

By Senator Wilson (With Notice and Proof):

S. 8. Relating to supernumerary district attorneys of the fourteenth (14th) judicial circuit; to provide a salary supplement equal to the salary supplement paid to supernumerary district attorneys of the tenth (10th) judicial circuit; and to specifically repeal Act No. 91-644, S. 695, of the 1991 Regular Session.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 8, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Bennett (With Notice and Proof):

S. 9. Relating to Jefferson County; to create the "Metropolitan Rapid Rail Study Commission" for the county; to provide for the powers, duties, functions, finances, and membership of the commission.

Committee on Local
Legislation No. 2

I hereby certify that the notice and proof is attached to the Bill, SB 9, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Bennett (With Notice and Proof):

S. 10. Relating to Jefferson County; providing that the salary of the Treasurer shall be the same as the salaries of the Tax Assessor and Tax Collector and shall be paid out of the county general fund and the salary of the Deputy Treasurer shall be 90 percent of the salary of the Treasurer.

Committee on Local
Legislation No. 2

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I hereby certify that the notice and proof is attached to the Bill, SB 10, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Lindsey (With Notice and Proof):

S. 11. Relating to the City of Linden in Marengo County, to establish an investment trust fund to receive certain proceeds derived from a sale/purchase agreement between the City of Linden, the utilities board of the City of Linden and Alabama Gas Corporation, and from other lawful sources; to provide for legal investments for said fund; and to provide procedures for the expenditure of interest and principal from said fund.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 11, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Sanders:

S. 12. To provide that county commissions which are currently elected from single-member districts may alter the boundaries of their respective districts.

Committee on Governmental
Affairs/Local Government

By Senator Bennett (With Notice and Proof):

S. 13. Relating to Jefferson County; amending Sections 4 and 5 of Act No. 765, H. 675, 1969 Regular Session (Acts 1969, p. 1358) creating a public bureau for the purpose of attracting conventions and visitors to every county having a population of 500,000 or more, to permit any county with area within the metropolitan area of the largest city in the county within the population span to come under this act; and to provide further for the board of directors of the bureau.

Committee on Local
Legislation No. 2

I hereby certify that the notice and proof is attached to the Bill, SB 13, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Bailey:

S. 14. To amend Section 26-16-30 of the Code of Alabama 1975, relating to the Children's Trust Fund, to provide for the investment of trust fund money.

Committee on Banking
and Insurance

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Campbell:

HJR 2. COMMITTEE APPOINTED TO NOTIFY GOVERNOR LEGISLATURE IS IN SESSION.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That a committee of six, consisting of three members of the Senate to be appointed by the presiding officer of the Senate, and three members on the part of the House to be appointed by the Speaker, be appointed to notify the Governor of Alabama that the Legislature is now in session and is ready for the transaction of business.

And the Speaker of the House appointed as committee on part of the House to notify the Governor, Reps. Carns, Rich, and Turner.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator deGraffenried, the Rules were suspended and the Resolution, HJR 2, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

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And the President and Presiding Officer of the Senate appointed as Committee on part of the Senate to notify the Governor, Senators Waggoner, Hale, and Bedsole.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Campbell:

HJR 3. INVITATION FOR JOINT ADDRESS.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That a joint session of the House and Senate be held at 6:00 P.M. on January 27, 1992, for the purpose of hearing the message of the Honorable Guy Hunt, Governor of Alabama.

BE IT FURTHER RESOLVED, That a committee of three from the House to be named by the Speaker of the House, and a committee of three from the Senate to be named by the Presiding Officer of the Senate, be appointed to wait upon the Governor and advise him that the two Houses will meet in joint session at the hour named above, for the purpose of receiving his message, and that said Committee also serve as a Committee to escort the Governor to the House for the joint session.

And the Speaker of the House appointed as committee on part of the House to escort the Governor, Reps. Carns, Rich, and Turner.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator deGraffenried, the Rules were suspended and the Resolution, HJR 3, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

And the President and Presiding Officer of the Senate appointed as Committee on part of the Senate to escort the Governor, Senators Ellis, Lipscomb, and Dial.

RECESS

At 5:55 P.M., on motion of Senator Hilliard, the Senate took a recess until the completion of the Joint Session.

JOINT SESSION

At 6 o'clock P.M., the Senate repaired to the Hall of the House of Representatives for the purpose of hearing the message of His Excellency, Guy Hunt, Governor of the State of Alabama.

The Session was called to order by Lieutenant Governor James E. Folsom, President and Presiding Officer of the Senate. A quorum of the Legislature was present.

Thereupon, the Honorable Guy Hunt was escorted to the Chair and delivered his address to the Legislature of Alabama.

At 6:20 P.M., the purpose of the Joint Session having been accomplished, the Senate returned to its Chamber and was called to order by Lieutenant Governor Folsom. A quorum was present.

INTRODUCTION OF BILLS RESUMED

By Senators Corbett, Campbell, Wilson, Lindsey, Floyd, Langford, and Bennett:

S. 15. To amend Section 17-20-1, Code of Alabama 1975, relating to the division of the state into congressional districts, so as to redistrict the congressional districts based upon the 1990 census.

Committee on Constitution
and Elections

By Senators Corbett, Wilson, Lindsey, and Floyd:

S. 16. To amend Section 17-20-1, Code of Alabama 1975, relating to the division of the state into congressional districts, so as to redistrict the congressional districts based upon the 1990 census.

Committee on Constitution
and Elections

By Senator Little:

S. 17. To create an Alabama Clearinghouse for State Publica-

tions within the Alabama Public Library Service and provide for its operations, duties and authority; to authorize the promulgation of reasonable rules and regulations; to provide for the creation of state publications depositories; and to repeal section 41-6-12, Code of Alabama 1975, which requires the printing of certain state publications.

**Committee on Governmental
Affairs/State Administration**

By Senator Smith (J):

S. 18. To amend Section 17-16-11 of the Code of Alabama 1975 relating to primary elections so as to shorten the time period for the filing of declarations of candidacy and for the certification of candidates.

**Committee on Constitution
and Elections**

By Senator Mitchell:

S. 19. To make supplemental appropriations from the Alabama Special Educational Trust Fund to the Butler County Board of Education and the Dale County Board of Education for the fiscal year ending September 30, 1992, for repairs to any school damaged by windstorm or fire in the counties.

**Committee on Finance
and Taxation**

By Senators Windom, Wilson, Floyd, Campbell, Langford, Foshee, Parsons, Corbett, Sanders, and Lindsey:

S. 20. Relating to insurance rates approved for workmen's compensation insurance carriers; to provide further for those rates.

**Committee on Banking
and Insurance**

By Senator Foshee:

S. 21. Relating to insurance rates approved for workmen's compensation insurance carriers; to provide further for those rates.

**Committee on Banking
and Insurance**

By Senators Bedsole and Preuitt:

S. 22. To change the term "workmen's compensation" to "workers' compensation."

Committee on Economic Affairs

By Senator Foshee:

S. 23. To amend Sections 27-13-66 and 27-13-72 of the Code of Alabama 1975, relating to the filing of certain statistical and financial data or reports by casualty insurance carriers with the Department of Insurance pursuant to a request for a rate adjustment; to require that those data or reports filed by workmen's compensation carriers be made available to the public by the Department of Insurance, upon request, at any time after the filing.

Committee on Banking
and Insurance

By Senators Windom, Floyd, Campbell, Langford, Foshee, Parsons, Corbett, Bennett, Wilson, Sanders, Figures, and Lindsey:

S. 24. To amend Sections 27-13-28 and 27-13-66, Code of Alabama 1975, which relate to the annual statistical reports of insurance companies, so as to provide that certain information shall be public record; and to provide for a fine levied and collected by the commissioner, after a special hearing, for any person who, without prior written authorization, obtains any records, data or other information, or access thereto, of an insurance company or rate organization with the intent to convey such records, data or information to another company or organization for the purpose of affecting rates or gaining a competitive business advantage.

Committee on Banking
and Insurance

By Senators Wilson, Corbett, Lindsey, Sanders, Hilliard, Floyd, Campbell, Bennett, Windom, Langford, Figures, Parsons, and Foshee:

S. 25. To establish the Alabama Employers Mutual Workers' Compensation Insurance to provide workers' compensation insurance in Alabama and to create the Alabama Workers' Compensation Insurance

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Finance Authority to issue bonds for that purpose.

Committee on Banking
and Insurance

By Senators Dixon and Bedsole:

S. 26. To create a Workmen's Compensation Medical Services Board within the Department of Industrial Relations to implement and operate a system of providing medical services to injured workers covered by existing workmen's compensation statutes.

Committee on Health

By Senators Corbett, Campbell, Horn, Hilliard, Wilson, Langford, Foshee, Floyd, Lindsey, Bedsole, Parsons, Sanders, and Figures:

S. 27. To amend sections 40-23-36 and 40-23-77, Code of Alabama 1975, so as to limit the discounts allowed to sellers or vendors who make payments of the taxes imposed by sections 40-23-1 through 40-23-38 and 40-23-60 through 40-23-88 before delinquency.

Committee on Finance
and Taxation

By Senators deGraffenried, Barron, Dial, Mitchem, Waggoner, Bedsole, Owens, Foshee, Hale, Little, Bolling, Dixon, Ellis, Smith (B), and Bailey:

S. 28. To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 2, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation specialist program, mandatory benefit review conferences, and adjudication of claims by administrative law judges within the Division of Workers' Compensation of the Department of Industrial Relations; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, to repeal Sections 25-5-6, 25-5-12, 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, 25-5-88, 25-5-89, 25-5-91, 25-5-92, 25-5-93, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975; and to provide for certain implementation dates for various sections of the act.

Committee on Business
and Labor Relations

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By Senator Lindsey:

S. 29. To revise the Alabama Workers' Compensation Act, Section 25-5-1, et. seq., Code of Alabama 1975.

Committee on Economic Affairs

ADJOURNMENT

At 6:30 P.M., on motion of Senator Corbett, in accordance with Motion heretofore adopted, the Senate adjourned until Tuesday, January 28, 1992, at 2 o'clock P.M.

SECOND LEGISLATIVE DAY
TUESDAY, JANUARY 28, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by Senator Ann Bedsole, Thirty-fourth Senatorial District.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Sonya M. Thompson, Alabama State University, Montgomery, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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**REPORT OF COMMITTEE
ON RULES ON
REVISION OF THE JOURNAL**

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the First Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator deGraffenried, leave of absence was granted Senator Sanders for today.

MOTION TO ADJOURN

Senator deGraffenried moved that when the Senate adjourns today, it adjourn to meet again on Wednesday, January 29, 1992, at 10 o'clock A.M., which motion was adopted.

REPORTS OF COMMITTEES

Senator Windom, Chairperson of the Standing Committee on Banking and Insurance, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senators Wilson, Corbett, Lindsey, Sanders, Hilliard, Floyd, Campbell, Bennett, Windom, Langford, Figures, Parsons, and Foshee (With Substitute):

S. 25. To establish the Alabama Employers Mutual Workers' Compensation Insurance to provide workers' compensation insurance in Alabama and to create the Alabama Workers' Compensation Insurance Finance Authority to issue bonds for that purpose.

Senator Windom, Chairperson of the Standing Committee on Banking and Insurance, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Bailey:

S. 14. To amend Section 26-16-30 of the Code of Alabama

1975, relating to the Children's Trust Fund, to provide for the investment of trust fund money.

By Senator Foshee:

S. 23. To amend Sections 27-13-66 and 27-13-72 of the Code of Alabama 1975, relating to the filing of certain statistical and financial data or reports by casualty insurance carriers with the Department of Insurance pursuant to a request for a rate adjustment; to require that those data or reports filed by workmen's compensation carriers be made available to the public by the Department of Insurance, upon request, at any time after the filing.

By Senators Windom, Floyd, Campbell, Langford, Foshee, Parsons, Corbett, Bennett, Wilson, Sanders, Figures, and Lindsey:

S. 24. To amend Sections 27-13-28 and 27-13-66, Code of Alabama 1975, which relate to the annual statistical reports of insurance companies, so as to provide that certain information shall be public record; and to provide for a fine levied and collected by the commissioner, after a special hearing, for any person who, without prior written authorization, obtains any records, data or other information, or access thereto, of an insurance company or rate organization with the intent to convey such records, data or information to another company or organization for the purpose of affecting rates or gaining a competitive business advantage.

By Senator Foshee:

S. 21. Relating to insurance rates approved for workmen's compensation insurance carriers; to provide further for those rates.

By Senators Windom, Wilson, Floyd, Campbell, Langford, Foshee, Parsons, Corbett, Sanders, and Lindsey:

S. 20. Relating to insurance rates approved for workmen's compensation insurance carriers; to provide further for those rates.

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Lindsey:

S. 29. To revise the Alabama Workers' Compensation Act,

Section 25-5-1, et. seq., Code of Alabama 1975.

By Senators Bedsole and Preuitt:

S. 22. To change the term "workmen's compensation" to "workers' compensation."

Senator Smith (J), Chairperson of the Standing Committee on Health, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senators Dixon and Bedsole (With Amendment):

S. 26. To create a Workmen's Compensation Medical Services Board within the Department of Industrial Relations to implement and operate a system of providing medical services to injured workers covered by existing workmen's compensation statutes.

Senator Denton, Chairperson of the Standing Committee on Governmental Affairs/Local Government, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Denton:

S. 1. To amend Section 11-6-23, Code of Alabama 1975, relating to the state Highway Department's participation in the salary of county engineer trainees.

By Senator Sanders:

S. 12. To provide that county commissions which are currently elected from single-member districts may alter the boundaries of their respective districts.

Senator deGraffenried, Chairperson of the Standing Committee on Public Welfare, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Smith (B):

S. 2. To revise the procedural requirements for increasing

the number of city council districts in a Class 3 municipality.

By Senator Smith (B):

S. 3. Permitting members of a board of education of a Class 3 municipality to be elected from districts, and at times, as determined by the governing body of the municipality.

Senator Ghee, Chairperson of the Standing Committee on Constitution and Elections, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Smith (J):

S. 18. To amend Section 17-16-11 of the Code of Alabama 1975 relating to primary elections so as to shorten the time period for the filing of declarations of candidacy and for the certification of candidates.

Senator Ghee, Chairperson of the Standing Committee on Constitution and Elections, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senators Corbett, Wilson, Lindsey, and Floyd (With Substitute):

S. 16. To amend Section 17-20-1, Code of Alabama 1975, relating to the division of the state into congressional districts, so as to redistrict the congressional districts based upon the 1990 census.

Senator Campbell, Chairperson of the Standing Committee on Local Legislation No. 1, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Hale (With Notice and Proof):

S. 4. Relating to the Eighth Judicial Circuit; providing a county retirement for circuit judges; and providing for the election to participate in the retirement benefits under this act.

By Senator Wilson (With Notice and Proof):

S. 8. Relating to supernumerary district attorneys of the four-

teenth (14th) judicial circuit; to provide a salary supplement equal to the salary supplement paid to supernumerary district attorneys of the tenth (10th) judicial circuit; and to specifically repeal Act No. 91-644, S. 695, of the 1991 Regular Session.

By Senator Lindsey (With Notice and Proof):

S. 11. Relating to the City of Linden in Marengo County, to establish an investment trust fund to receive certain proceeds derived from a sale/purchase agreement between the City of Linden, the utilities board of the City of Linden and Alabama Gas Corporation, and from other lawful sources; to provide for legal investments for said fund; and to provide procedures for the expenditure of interest and principal from said fund.

Senator Hilliard, Chairperson of the Standing Committee on Local Legislation No. 2, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Bennett (With Notice and Proof):

S. 9. Relating to Jefferson County; to create the "Metropolitan Rapid Rail Study Commission" for the county; to provide for the powers, duties, functions, finances, and membership of the commission.

By Senator Bennett (With Notice and Proof):

S. 13. Relating to Jefferson County; amending Sections 4 and 5 of Act No. 765, H. 675, 1969 Regular Session (Acts 1969, p. 1358) creating a public bureau for the purpose of attracting conventions and visitors to every county having a population of 500,000 or more, to permit any county with area within the metropolitan area of the largest city in the county within the population span to come under this act; and to provide further for the board of directors of the bureau.

RECESS

At 2:35 P.M., on motion of Senator Corbett, the Senate took a recess subject to the call of the Chair.

At 4:30 P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

REPORTS OF COMMITTEES RESUMED

Senator Mitchem, Chairperson of the Standing Committee on Business and Labor Relations, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senators deGraffenried, Barron, Dial, Mitchem, Waggoner, Bedsole, Owens, Foshee, Hale, Little, Bolling, Dixon, Ellis, Smith (B), and Bailey:

S. 28. To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 2, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation specialist program, mandatory benefit review conferences, and adjudication of claims by administrative law judges within the Division of Workers' Compensation of the Department of Industrial Relations; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, to repeal Sections 25-5-6, 25-5-12, 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, 25-5-88, 25-5-89, 25-5-91, 25-5-92, 25-5-93, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975; and to provide for certain implementation dates for various sections of the act.

ADJOURNMENT

At 4:35 P.M., on motion of Senator deGraffenried, in accordance with Motion heretofore adopted, the Senate adjourned until Wednesday, January 29, 1992, at 10 o'clock A.M.

THIRD LEGISLATIVE DAY
WEDNESDAY, JANUARY 29, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by Senator Walter Owens, Twenty-fourth Senatorial District.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Toni Pappas, Senate Staff.

ROLL CALL

Present:

Senators:

Amari, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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**REPORT OF COMMITTEE
ON RULES ON
REVISION OF THE JOURNAL**

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Second Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator deGraffenried, leave of absence was granted Senators Bailey, Barron, and Figures for today.

MOTION TO ADJOURN

Senator deGraffenried moved that when the Senate adjourns today, it adjourn to meet again on Thursday, January 30, 1992, at 2 o'clock P.M., which motion was adopted.

RESOLUTIONS

Senators Dixon, Corbett, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom offered the following Senate Joint Resolution, to-wit:

SJR 3. MOURNING THE DEATH OF WATKINS COOK JOHNSTON OF MONTGOMERY, ALABAMA.

WHEREAS, it is with deep sorrow and regret that the Legislature of Alabama records the death of Watkins Cook Johnston of Montgomery, Alabama, on December 26, 1991, at the age of 84 years; and

WHEREAS, a native of Tuskegee where he was educated in the public schools, Mr. Johnston attended the University of Alabama where he received the B.S. degree in 1928, and his L.L.B. degree in 1932, whereupon he entered the practice of law in Tuskegee; he also served as chairman of the Macon County Board of Revenue (1933-37), as judge of Macon County Inferior Court (1933-39) and was elected to the Alabama State Senate in 1938, representing Macon and Bullock counties; and

WHEREAS, Mr. Johnston, immediately following the attack on

Pearl Harbor, resigned his Senate seat to join the United States Navy, and served in the South Pacific as a lieutenant commander aboard an aircraft carrier; and

WHEREAS, following the war, Mr. Johnston returned to Alabama and to Montgomery to practice law and, at the time of his death, was the senior partner of the firm of Rushton, Stakely, Johnston & Garrett, P.A.; and

WHEREAS, Watkins Johnston, in addition to the practice of law, was a founder, director and former chairman of the board of Gulf American Fire and Casualty Insurance Company; he further had served as president of the Rotary Club and Production Credit Association, and on the Vestry of the Episcopal Church of the Ascension in Montgomery; and

WHEREAS, in an extension of his many involvements, Mr. Johnston had served as chairman of the United Appeal, as president of the University of Alabama Alumni Association, and operated a cattle farm in Letohatchee; and

WHEREAS, Watkins Cook Johnston was indeed a prominent member of his community and a distinguished Alabamian whose life bore eloquent testimony to the highest ideals of integrity, ability and commitment to service; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Watkins Cook Johnston of Montgomery, Alabama, and extend deepest sympathy to his beloved wife, the former Edith Rushton; their sons, Watkins Cook Johnston, Jr., Frank Means Johnston and Ray Rushton Johnston; daughter, Edith Johnston Crook; and to other family members, whose sorrow we sincerely share and for whom a copy of this resolution shall be provided.

On motion of Senator Dixon, the Rules were suspended and the Resolution was adopted by the Senate.

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 4. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following in the order named shall be the paramount and continuing order of business taking

precedence over all other matters for the third legislative day of the 1992 First Special Session only:

Inst Id	Page
S. 26	5
Workers' Compensation Medical Services Bd., estab. in Dept. of Industrial Relations, provide medical services for injured workers	

House Messages

S. 18	8
Primary elections, date for filing declarations of candidacy and certifying candidates, Sec. 17-16-11 am'd.	

On motion of Senator Preuitt, the Resolution was adopted by the Senate.

Senators deGraffenried, Bedsole, Langford, Smith (J), and Dixon offered the following Senate Joint Resolution, to-wit:

SJR 5. COMMENDING BETTY SHIRLEY OF TUSCALOOSA, ALABAMA.

WHEREAS, it is with great pride that the Alabama Legislature commends Betty Shirley of Tuscaloosa upon recognition by President George Bush as a "Daily Point of Light" for her many years of volunteer service; and

WHEREAS, this singular honor, however, which was shortly preceded by the Kappa Delta "Order of the Pearl" award, also national in scope, only serves to greatly broaden the widespread recognition Mrs. Shirley has long received throughout the Tuscaloosa area for the vital role she has played for some 40 years in improving the quality of life in the local community and West Alabama; and

WHEREAS, although Mrs. Shirley has been involved in dozens of volunteer activities over the years, she now devotes most of her efforts in tireless support of programs related to mental health and the developmentally disadvantaged, two areas of special concern resulting from a personal bout with and recovery from depression more than two decades ago, and out of love for her young grandson, Walt, who has Down's Syndrome; and

WHEREAS, with a seemingly unlimited capacity for work and as a

staunch champion of the needs of the mentally and physically handicapped, Mrs. Shirley has secured funding for countless causes in these areas; her on-going volunteer endeavors also include support of special projects for patients at Bryce Hospital, counseling of patients at Crestview Treatment Center for the mentally ill and those addicted to alcohol, as well as service on the Mental Health Board, the Board of Friends of Bryce Hospital, and the RISE Board; and

WHEREAS, the RISE program of the University of Alabama's College of Education provides special education, and physical, occupational and speech therapy for mentally and physically handicapped children; the program, which faced the threat of extinction just eight years ago due to a severe shortage of public and private funding, has continued in operation through additional funds raised solely by Mrs. Shirley, whose grandson, Walt, became the first RISE graduate to be mainstreamed into the public school system; and

WHEREAS, Betty Bailey Shirley, a native Montgomerian and a longtime Tuscaloosa resident, is indeed a "Daily Point of Light" who has greatly brightened the lives and future of those most in need of our compassion, understanding, and concern; she is a continuing example of selfless service and a distinguished Alabamian in whom we are justly proud; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding service and accomplishments on behalf of others, we hereby most highly commend Betty Shirley of Tuscaloosa, Alabama, whom we hold in warmest personal regard and for whom a copy of this resolution shall be provided.

On motion of Senator deGraffenried, the Rules were suspended and the Resolution was adopted by the Senate.

SPECIAL ORDER BILLS ON THIRD READING

The Senate proceeded to consideration of the special, paramount, and continuing order of business for today, the first of which was the Bill:

S. 26. To create a Workmen's Compensation Medical Services Board within the Department of Industrial Relations to implement and operate a system of providing medical services to injured workers covered by existing workmen's compensation statutes.

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The Standing Committee on Health reported the following amendment to the Bill, SB 26, to-wit:

AMENDMENT TO SB 26

Amend Senate Bill 26, on Page 9, Line 33, as follows:

After the word the delete the word "the"

Which was adopted.

Yeas 29 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Smith (B), Smith (J), Waggoner, Wilson, and Windom -29

Nays:

- 0

Senator Dixon offered the following amendment to the Bill, SB 26, as amended, to-wit:

AMENDMENT TO SB 26, AS AMENDED

Amend Senate Bill No. 26, as amended, on page 6, line 31, by deleting the word "polices" and inserting in lieu thereof the word "policies".

Which was adopted.

Yeas 24 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Owens, Parsons, Preuit, Smith (B), Smith (J), Waggoner, and Windom -24

Nays:

- 0

Senator Dial offered the following amendment to the Bill, SB 26, as amended, to-wit:

AMENDMENT TO SB 26, AS AMENDED

Amend SB 26, as amended, on page 3, lines 14 and 15, after the

word "surgical" by striking the words ~~dental~~, and adding the word or and by striking the words ~~or other health care~~

Further amend SB 26 on page 6, Section 4, line 17, after the word "physicians" by striking the following: ~~and other health care providers~~

Further amend SB 26 on page 6, Section 4, beginning on line 21, after the word "committees" by striking the following: ~~shall be health care providers and~~

Further amend SB 26 on page 6, Section 4, beginning on line 22 after the word "Board." by striking the words ~~Health care providers~~ and inserting in lieu thereof the following: "Physicians"

Which was lost.

Yeas 10 Nays 17

Yeas:

Senators:

Amari, Bolling, Dial, Ellis, Little, Mitchell, Mitchem, Owens, Preuit, and Windom -10

Nays:

Senators:

Bedsole, Bennett, Campbell, Corbett, deGraffenried, Denton, Dixon, Floyd, Foshee, Ghee, Hale, Hilliard, Langford, Lindsey, Parsons, Smith (B), and Smith (J) -17

And said Bill, SB 26, as thus amended, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 28 Nays 1
Abstaining 1

Yeas:

Senators:

Amari, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Mitchell, Mitchem, Owens, Parsons, Preuit, Smith (B), Smith (J), Wilson, and Windom -28

Nay: Senator Ellis

- 1

Abstaining: Senator Little

- 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Reps. Kennedy, Buskey (JL), Holmes, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Hooper, Johnson, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis, and Zoghby:

HJR 24. COMMENDING ALABAMA STATE UNIVERSITY ON THE EXTRAORDINARY ACCOMPLISHMENTS OF THE 1991 FOOTBALL SEASON.

Also:

By Reps. Kennedy, Buskey (JL), Holmes, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Hooper, Johnson, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newman, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable,

Walker, Warren, White, Williams, Willis, and Zoghby:

**HJR 25. COMMENDING HOUSTON MARKHAM, JR.,
ALABAMA STATE UNIVERSITY HEAD COACH AND SWAC
FOOTBALL COACH OF THE YEAR.**

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Langford, the Rules were suspended and the Resolutions, HJR's 24 and 25, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Rep. Turner:

**HJR 6. COMMENDING LANCE CORPORAL JOSEPH
RICHARD RUTLAND, RECIPIENT OF THE BRONZE MEDAL.**

Also:

By Rep. Millican:

**HJR 7. NAMING THE "L. C. LAUDERDALE, SR., HIGH-
WAY."**

Also:

By Rep. Newton (C):

**HJR 8. CONGRATULATING LUVERNE HIGH SCHOOL AS
ALABAMA'S 1991 STATE 3-A FOOTBALL CHAMPIONS.**

Also:

By Rep. Newton (C):

HJR 9. CONGRATULATING MCKENZIE HIGH SCHOOL

AS 1991 ALABAMA STATE 1-A FOOTBALL CHAMPIONS.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Lipscomb, the Rules were suspended and the Resolution, HJR 6, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

On motion of Senator Bolling, the Rules were suspended and the Resolution, HJR 7, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

On motion of Senator Mitchell, the Rules were suspended and the Resolutions, HJR's 8 and 9, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Reps. Penry, McMillan, and Zoghby:

**HJR 22. COMMENDING LEONARD D. TRIONE FOR OUT-
STANDING COMMUNITY SERVICE.**

Also:

By Reps. McMillan and Penry:

**HJR 23. COMMENDING DUDLEY MCLEOD HOWELL ON
THE OCCASION OF HIS RETIREMENT.**

Also:

By Rep. Hammett:

**HJR 26. DESIGNATING FEBRUARY 29, 1992, AS "ALA-
BAMA TRIO DAY."**

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Lipscomb, the Rules were suspended and the Resolutions, HJR's 22 and 23, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

On motion of Senator deGraffenried, the Rules were suspended and the Resolution, HJR 26, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

BILL RECONSIDERED

On motion of Senator Mitchell, the Senate reconsidered the vote by which the Bill, SB 26, as amended, was passed.

On motion of Senator Mitchell, the Senate reconsidered the vote by which the Bill, SB 26, as amended, was ordered to its third reading.

On motion of Senator Smith (J), the Senate reconsidered the vote by which the Dial amendment to the Bill, SB 26, was lost.

And said Dial amendment was then adopted.

Yeas 25 Nays 5

Yeas:

Senators:

Amari, Bolling, Campbell, Corbett, Denton, Dial, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Smith (J), Wilson, and Windom -25

Nays:

Senators:

Bedsole, Bennett, deGraffenried, Dixon, and Smith (B) - 5

And said Bill, SB 26, as thus amended, was again read a third time at length and passed and ordered sent forthwith to the House upon engrossment.

Yeas 27 Nays 1
Abstaining 1

Yeas:

Senators:

Amari, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Floyd, Foshee, Ghee, Hale, Horn, Langford,

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Lindsey, Lipscomb, Mitchell, Mitchem, Owens, Parsons, Preuitt,
Smith (B), Smith (J), Wilson, and Windom -27

Nay: Senator Ellis - 1

Abstaining: Senator Little - 1

RESOLUTION

Senator Mitchem requested and received permission to suspend the Rules to offer the following Senate Joint Resolution, to-wit:

SJR 6. COMMENDING GLYNN C. DEBTER OF BLOUNT COUNTY, ALABAMA.

WHEREAS, it is with highest commendation that the Alabama Legislature recognizes Glynn C. Debter of Horton, Blount County, Alabama, as the 1991 Alabama Cattlemen's Association "Personality of the Year," and on the many accomplishments of his tenure as the association's president for 1991-1992; and

WHEREAS, Mr. Debter, a breeder of registered Hereford cattle since 1948, owns and operates, along with his family, Debter Hereford Farm which is recognized as one of the top sources of Hereford seedstock in the nation; and

WHEREAS, in addition, however, to the day-to-day operation of the family farm, Mr. Debter has gained prominence as a longtime agricultural leader at both state and national levels; and

WHEREAS, in Alabama, his commitment to service has centered primarily around leadership within the Alabama Cattlemen's Association which he has served as Blount County president, among other local offices; as regional vice president; and as state vice president prior to his current term as ACA's 46th president; and

WHEREAS, under Glynn Debter's leadership this past year, ACA held a series of Area Beef Cattle Meetings throughout the state, introducing a statewide quality assurance program; hosted the national association's Region II Workshop and the Beef Board Research Committee; initiated new connection dates in order to schedule a Saturday "Issues Workshop" to allow greater participation by members who hold other jobs; and began an expansion and renovation of the association's building to include an educational wing and museum; and

WHEREAS, Mr. Debter, who also is a past president and former

director of the American Hereford Association and is an ACA lifetime director, has received a number of honors in recognition of achievement and service, including BIF Seedstock Producer of the Year, Alabama Seedstock Producer of the Year and Blount County Business Man of the Year; he further is widely acknowledged as one of his community's most dedicated civic leaders through such service as director of the Community Bank of Snead, chairman of the Livestock Committee of the Blount County Agribusiness Center; member of the Oneonta Agribusiness Center board; and as an active member and deacon of New Prospect Baptist Church; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Glynn C. Debter of Horton, Alabama, for outstanding service and contributions to Alabama's cattle industry and to the Alabama Cattlemen's Association as president for the 1991-1992 term, and do further direct that a copy of this resolution be prepared for presentation to Mr. Debter at the forthcoming annual meeting of the Alabama Cattlemen's Association.

On motion of Senator Mitchem, the Rules were suspended and the Resolution was adopted by the Senate.

BILLS ON THIRD READING RESUMED

THE BILL:

S. 18. To amend Section 17-16-11 of the Code of Alabama 1975 relating to primary elections so as to shorten the time period for the filing of declarations of candidacy and for the certification of candidates.

was taken up.

Senator Smith (J) offered the following substitute for the Bill, SB 18, to-wit:

SUBSTITUTE FOR SB 18

A BILL TO BE ENTITLED AN ACT

To amend Sections 17-10-12 and 17-16-11 of the Code of Alabama 1975, relating to primary elections and absentee balloting, to shorten the time period for the delivery of absentee ballots, the filing of declarations

of candidacy, and for the certification of candidates.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 17-10-12 and 17-16-11 of the Code of Alabama 1975, are amended to read as follows:

§17-10-12.

"Not less than 40 20 days prior to the holding of any election to which this chapter pertains, or in the case of a run-off primary election to which this chapter pertains, not more than seven days after the first primary election, the officer charged with the printing and distribution of the official ballots and election supplies shall ~~cause to be delivered~~ deliver to the absentee election manager of each county in which the election is held or to the person designated to serve in his or her stead place a sufficient number of absentee ballots, envelopes, and other necessary supplies. If the absentee election manager is a candidate with opposition in the election, he or she shall immediately, upon receipt of ~~such the~~ such the ballots, envelopes, and supplies, deliver ~~the same~~ them to the person authorized to act in his or her stead place, as provided ~~for~~ in section Section 17-10-13.

"§17-16-11.

"(a) All candidates for nomination to public office or for election to party office in the primary election provided for in this chapter shall file their declaration of candidacy with the state party chairman chair if they seek any ~~office other than a county office~~ office (including federal, state, circuit, ~~and or~~ or district ~~offices~~ office, or the state ~~senate~~ Senate, and ~~house of representatives~~ House of Representatives), or any other office that is not a county office not later than 5:00 P.M. 40 days before the date of the primary election. and with All candidates for nomination or election to a county office shall file their declaration with the county party chairman chair ~~if they seek a county office~~, not later than 5:00 P.M. ~~60 40~~ 40 days before the date of such the primary election.

"(b) The state party ~~chairman chair~~ shall, no later than 5:00 P.M. ~~55 35~~ 35 days before the primary election, certify the names of all primary election candidates, except candidates for county offices, to the ~~secretary of state~~ Secretary of State. The county party ~~chairman chair~~ shall, not later than 5:00 P.M. ~~55 35~~ 35 days prior to the date of the primary election, certify to the probate judge the names of all candidates for nomination to county offices or election to county party offices. The ~~secretary of state~~ Secretary of State shall, not less than ~~50 30~~ 30 days prior

to the date of the primary election, certify to the probate judge of every county in which the election is to be held the names of the opposed candidates for nomination to federal, state, circuit, or district offices, the state ~~senate~~ Senate, and ~~house of representatives~~ House of Representatives, and all other opposed candidates to public or party office, except candidates for county offices.

"(c) The probate judge of each county shall have the ballots prepared for the primary election. If a legally qualified candidate for nomination to an office is unopposed when the last date for filing declarations of candidacy has passed, his or her name shall not appear on the ballots to be used in the primary election, and he or she shall be the nominee of the party with which he or she has qualified for the office. If a legally qualified candidate for election to a party office is unopposed when the last date for filing declarations of candidacy has passed, his or her name shall not appear on the ballots to be used in the primary election, and he or she shall be declared elected to the party office for which he or she qualified."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

Yeas 24 Nays 4

Yeas:

Senators:

Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Floyd, Foshee, Ghee, Horn, Langford, Lindsey, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), Smith (J), Wilson, and Windom

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Nays:

Senators:

Amari, Dixon, Ellis, and Lipscomb

- 4

And said Bill, SB 18, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 24 Nays 4

Yeas:

Senators:

Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial,

Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Smith (B), Smith (J), Wilson, and Windom
-24

Nays:

Senators:

Amari, Bedsole, Ellis, and Lipscomb

- 4

RESOLUTIONS

Senators Parsons, Corbett, Dial, and Bedsole offered the following Senate Joint Resolution, to-wit:

SJR 7. REQUESTING THE RELEASE OF ALL GOVERNMENTAL MATERIAL CONCERNING THE ASSASSINATIONS OF PRESIDENT JOHN F. KENNEDY AND DR. MARTIN LUTHER KING, JR.

WHEREAS, the assassination of President John F. Kennedy on November 22, 1963, in Dallas, Texas, and the assassination of Dr. Martin Luther King, Jr., on April 4, 1968, in Memphis, Tennessee, are among the most significant historic events of this century; and

WHEREAS, controversy and distrust continue concerning the death of these individuals, and questions of conspiracies and international plots still confuse historians and place the integrity of our governmental institutions under suspicion; and

WHEREAS, a fundamental precept of our democratic form of government is the unequivocal right of our citizens to be informed of the truth; the desire of the U. S. Congress to adhere to this basic ideal is evident in the adoption of the Federal Freedom of Information Act; and

WHEREAS, innumerable records regarding the assassination of these men have been hidden from the probing eye of truth, a portion of the records of the House Select Committee on Assassination relating to the shooting of President Kennedy are sealed until the year 2029, and the Federal Bureau of Investigation report of the murder of Dr. King prepared during the tenure of J. Edgar Hoover is not accessible; and

WHEREAS, the Alabama Legislature, speaking on behalf of our citizens, earnestly desires that all facts involving these tragic events be made available to the people of our nation; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,

BOTH HOUSES THEREOF CONCURRING, That President George Bush, Senator Edward M. Kennedy, Speaker Thomas S. Foley, Representative Louis Stokes, Chair of the Select Committee on Assassination of the U. S. House of Representatives of the Ninety-fifth Congress, and Representative Robert K. Dornan are respectively requested to initiate all necessary actions to ensure all records in the possession of the United States Government pertaining to the assassinations of President John F. Kennedy and Dr. Martin Luther King, Jr., including, but not limited to, records of the Select Committee on Assassinations, records of the Warren Commission, records of the Federal Bureau of Investigation, and records of the Central Intelligence Agency, be immediately made available for inspection and duplication by the citizens of our nation.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to each of the aforementioned public officials and to each member of the Alabama Congressional Delegation so that each may know of our utmost concern regarding this matter.

On motion of Senator Parsons, the Rules were suspended and the Resolution was adopted by the Senate.

Senator Amari offered the following Senate Joint Resolution, to-wit:

SJR 8. RECOGNIZING THE ALABAMA JUNIOR COLLEGE ATHLETIC HALL OF FAME.

WHEREAS, junior college athletics started in Alabama in 1891; and

WHEREAS, The Alabama Junior College Athletic Hall of Fame was established in 1989 to recognize outstanding contributions to athletics in Alabama; and

WHEREAS, the Class of 1992 has been duly elected; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby congratulate and recognize the Class of 1992.

BE IT FURTHER RESOLVED, That each of the following inductees shall receive a copy of this Resolution: Debra B. Harvel, Jefferson State Community College; Thomas Henderson, Jefferson State Community College; Tommy Murfee, Marion Military Institute; Mackey

Sasser, Wallace State Community College, Dothan; Gene Sauers, Central Alabama Community College; Eldridge O. Turner, Lawson State Community College; and Taylor D. Wilkins, Marion Military Institute.

On motion of Senator Amari, the Rules were suspended and the Resolution was adopted by the Senate.

BILLS ON THIRD READING RESUMED

THE BILL:

S. 4. Relating to the Eighth Judicial Circuit; providing a county retirement for circuit judges; and providing for the election to participate in the retirement benefits under this act.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Campbell, deGraffenried, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, and Wilson

-25

Nays:

- 0

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 26. To create a Workmen's Compensation Medical Services Board within the Department of Industrial Relations to implement and operate a system of providing medical services to injured workers covered by existing workmen's compensation statutes.

**JIM PREUITT,
Chairperson.**

BILLS ON THIRD READING RESUMED

THE BILL:

S. 8. Relating to supernumerary district attorneys of the fourteenth (14th) judicial circuit; to provide a salary supplement equal to the salary supplement paid to supernumerary district attorneys of the tenth (10th) judicial circuit; and to specifically repeal Act No. 91-644, S. 695, of the 1991 Regular Session.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Campbell, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, and Wilson
-25

Nays:

- 0

THE BILL:

S. 11. Relating to the City of Linden in Marengo County, to establish an investment trust fund to receive certain proceeds derived from a sale/purchase agreement between the City of Linden, the utilities board of the City of Linden and Alabama Gas Corporation, and from other lawful sources; to provide for legal investments for said fund; and to provide procedures for the expenditure of interest and principal from said fund.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Campbell, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Lindsey, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Waggoner, Wilson, and Windom
-25

Nays:

- 0

THE BILL:

S. 9. Relating to Jefferson County; to create the "Metropolitan Rapid Rail Study Commission" for the county; to provide for the powers, duties, functions, finances, and membership of the commission.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 1

Yeas:

Senators:

Bennett, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hilliard, Horn, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Parsons, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom -25

Nay: Senator Amari

- 1

THE BILL:

S. 13. Relating to Jefferson County; amending Sections 4 and 5 of Act No. 765, H. 675, 1969 Regular Session (Acts 1969, p. 1358) creating a public bureau for the purpose of attracting conventions and visitors to every county having a population of 500,000 or more, to permit any county with area within the metropolitan area of the largest city in the county within the population span to come under this act; and to provide further for the board of directors of the bureau.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bennett, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hilliard, Horn, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Parsons, Sanders, Smith (B), Waggoner, Wilson, and Windom -25

Nays:

- 0

Senator Bedsole requested and received permission to suspend the Rules in order to bring up the Bill:

S. 22. To change the term "workmen's compensation" to "workers' compensation."

And said Bill, SB 22, was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 27 Nays 0

Yeas:

Senators:

Amari, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Floyd, Foshee, Ghee, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Smith (B), Smith (J), Wilson, and Windom -27

Nays:

- 0

RECESS

At 7:10 P.M., on motion of Senator Denton, the Senate took a recess subject to the call of the Chair.

At 8 o'clock P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 18. To amend Sections 17-10-12 and 17-16-11 of the Code of Alabama 1975, relating to primary elections and absentee balloting, to shorten the time period for the delivery of absentee ballots, the filing of declarations of candidacy, and for the certification of candidates.

JIM PREUITT,
Chairperson.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Reps. Beasley, McDaniel, Fuller, Mikell, Clark (J), Knight,

McMillan, Cosby, Penry, Turnham, Hooper, Carter, Rich, Carns, Cullins, Clay, Parker (T), Payne, Biddle, Laird, Layson, Venable, Lindsey, Harper, Gullatt, Smith (C), Powell, Sanderford, Gaines, Smith (R), Haney, Richardson, Harvey, Mathis, Carothers, Willis, McKee, Blakeney, Zoghby, Newton (C), Walker, and Sanderson:

H. 1. To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 2, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation specialist program, mandatory benefit review conferences, and adjudication of claims by administrative law judges within the Division of Workers' Compensation of the Department of Industrial Relations; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, to repeal Sections 25-5-6, 25-5-12, 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, 25-5-88, 25-5-89, 25-5-91, 25-5-92, 25-5-93, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975; to limit payment of health providers to not more than the prevailing rates of reimbursement for services provided, as specified; to specifically limit claims for mental disorders or injuries to disorders or injuries produced or proximately caused by some physical injury to the body; to provide that gradual deterioration or cumulative physical stress disorders shall be deemed compensable only upon a finding of clear and convincing evidence and to provide further for the statute of limitations for injuries due to cumulative physical stress; to make general contractors liable for workers' compensation benefits for employees of uninsured subcontractors; to specify the benefits for volunteer fire fighters or rescue squad members; to abolish the second injury trust fund; to extend from one to two years the statute of limitations for compensation for occupational diseases; to establish a workplace safety program for employers; to create a Medical Services Board in the Department of Industrial Relations which will provide for a maximum fee schedule; and to provide for civil immunity for members and employees of the board and to provide for certain implementation dates for various sections of the act.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate

Standing Committee, as follows:

HB 1 - to the Committee on Business and Labor Relations

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Lindsey (With Notice and Proof):

H. 11. Relating to the City of Centre in Cherokee County, Alabama; altering and rearranging the boundary lines and corporate limits of the City of Centre by adding certain parcels of land; providing for an advisory referendum approval by a majority of the qualified electors residing within the territory proposed to be brought within the city boundaries; and providing for an effective date.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 11, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 11 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Hall, Butler, Grayson, and Freeman (With Notice and Proof):

H. 14. Relating to Madison County; prohibiting alcoholic bev-

erage traffic in any private or public lounge, tavern, bar, club, nightclub or restaurant in certain unincorporated areas of the county that features or otherwise permits topless females on its premises.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 14, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 14 - to the Committee on Local Legislation No. 1

ADJOURNMENT

At 8:20 P.M., on motion of Senator deGraffenried, in accordance with Motion heretofore adopted, the Senate adjourned until Thursday, January 30, 1992, at 2 o'clock P.M.

FOURTH LEGISLATIVE DAY
THURSDAY, JANUARY 30, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by the Reverend Jiles Williams, Pastor, New Providence Baptist Church, Montgomery, Alabama.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Toni Pappas, Senate Staff.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, and Wilson

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**REPORT OF COMMITTEE
ON RULES ON
REVISION OF THE JOURNAL**

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Third Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator deGraffenried, leave of absence was granted Senators Bedsole, Figures, and Windom for today.

RESOLUTION

Senators Parsons, Lindsey, Corbett, Floyd, Bennett, Horn, and Langford requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 9. URGING GOVERNOR HUNT TO CERTIFY THAT SUFFICIENT FUNDS ARE NOT AVAILABLE TO SECURE FEDERAL MATCHING FUNDS IN ORDER TO OBTAIN 100 PERCENT FEDERAL FUNDING FOR HIGHWAY PROJECTS.

WHEREAS, the Intermodal Surface Transportation Efficiency Act of 1991 permits states to obtain a temporary matching fund waiver during Fiscal 1992 and Fiscal 1993 for qualifying federal-aid highway construction projects; and

WHEREAS, states can secure up to 100 percent federal funding for highways if the governor certifies that sufficient funds are not available to pay the state's share of qualifying highway and related construction projects; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Governor Hunt is strongly urged to certify to the appropriate federal officials that sufficient state funds are not available to pay the non-federal share of qualifying highway and related construction projects in order to obtain a temporary matching fund waiver.

BE IT FURTHER RESOLVED, That a copy of this resolution be delivered to Governor Hunt and to State Highway Director Hand.

On motion of Senator Parsons, further consideration of the Resolution, SR 9, was postponed subject to the call of the Chair.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Reps. Hooper, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis, and Zoghy:

HJR 34. COMMENDING JOHN DWIGHT BONHAM ON HIS RETIREMENT.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Dixon, the Rules were suspended and the Resolution, HJR 34, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 10. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following in the order

named shall be the paramount and continuing order of business taking precedence over all other matters for the fourth legislative day of the 1992 First Special Session only:

Inst Id	Page
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Committee Reports

S. 25 Workers' Compensation Insurance Fund, corporation estab., bd., authority estab., bonds auth., provide insurance to Ala. business	1
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On motion of Senator Preuitt, the Resolution was adopted by the Senate.

**SPECIAL ORDER
COMMITTEE REPORTS**

The Senate proceeded to consideration of the special, paramount, and continuing order of business for today, the first of which was Committee Reports:

Senator Mitchem, Chairperson of the Standing Committee on Business and Labor Relations, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendments, and it was read a second time and placed on the calendar, to-wit:

By Reps. Beasley, McDaniel, Fuller, Mikell, Clark (J), Knight, McMillan, Cosby, Penry, Turnham, Hooper, Carter, Rich, Carns, Cullins, Clay, Parker (T), Payne, Biddle, Laird, Layson, Venable, Lindsey, Harper, Gullatt, Smith (C), Powell, Sanderford, Gaines, Smith (R), Haney, Richardson, Harvey, Mathis, Carothers, Willis, McKee, Blakeney, Zoghby, Newton (C), Walker, and Sanderson (With Amendments):

H. 1. To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 2, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation specialist program, mandatory benefit review conferences, and adjudication of claims by administrative law judges within the Division of Workers' Compensation of the Department of Industrial Relations; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, to repeal Sections

25-5-6, 25-5-12, 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, 25-5-88, 25-5-89, 25-5-91, 25-5-92, 25-5-93, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975; to limit payment of health providers to not more than the prevailing rates of reimbursement for services provided, as specified; to specifically limit claims for mental disorders or injuries to disorders or injuries produced or proximately caused by some physical injury to the body; to provide that gradual deterioration or cumulative physical stress disorders shall be deemed compensable only upon a finding of clear and convincing evidence and to provide further for the statute of limitations for injuries due to cumulative physical stress; to make general contractors liable for workers' compensation benefits for employees of uninsured subcontractors; to specify the benefits for volunteer fire fighters or rescue squad members; to abolish the second injury trust fund; to extend from one to two years the statute of limitations for compensation for occupational diseases; to establish a workplace safety program for employers; to create a Medical Services Board in the Department of Industrial Relations which will provide for a maximum fee schedule; and to provide for civil immunity for members and employees of the board and to provide for certain implementation dates for various sections of the act.

Senator Campbell, Chairperson of the Standing Committee on Local Legislation No. 1, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Rep. Lindsey (With Notice and Proof):

H. 11. Relating to the City of Centre in Cherokee County, Alabama; altering and rearranging the boundary lines and corporate limits of the City of Centre by adding certain parcels of land; providing for an advisory referendum approval by a majority of the qualified electors residing within the territory proposed to be brought within the city boundaries; and providing for an effective date.

BILLS ON THIRD READING

THE BILL:

S. 25. To establish the Alabama Employers Mutual Workers' Compensation Insurance to provide workers' compensation insurance in Alabama and to create the Alabama Workers' Compensation Insurance Finance Authority to issue bonds for that purpose.

was taken up.

The Standing Committee on Banking and Insurance reported the following substitute for the Bill, SB 25, to-wit:

SUBSTITUTE FOR SB 25

**A BILL
TO BE ENTITLED
AN ACT**

To establish the Alabama Employers Mutual Workers' Compensation Insurance Authority to provide workers' compensation insurance in Alabama and to create the Alabama Workers' Compensation Insurance Finance Authority to issue bonds for that purpose.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. DEFINITIONS. As used in Sections 1 to 18, inclusive, of this act, the following words and phrases have the following meanings:

(1) **BOARD.** The board of directors of the Alabama Employers Mutual Workers' Compensation Insurance Authority.

(2) **AUTHORITY.** The Alabama Employers Mutual Workers' Compensation Insurance Authority.

(3) **WORKERS' COMPENSATION INSURANCE.** The insurance for any risk under the Alabama Workers' or Workmen's Compensation Act, pursuant to Chapter 5 (commencing with Section 25-5-1) of Title 25 of the Code of Alabama 1975.

Section 2. CREATION; OPERATION. The Alabama Employers Mutual Workers' Compensation Insurance Authority is created with the powers provided in this act.

Section 3. BOARD OF DIRECTORS. (a) The authority shall be governed by a board of directors composed of seven members, all of whom shall be residents of this state. The members shall be as follows: the President of the Alabama State Bar Association, or his or her designee; the President of the Alabama Medical Association, or his or her designee; the President of the Business Council of Alabama, or his or her designee; the President of the Alabama Chapter of the American Federation of Labor and Congress of Industrial Organizations, or his or her designee; the Chief Executive Officer of the Retirement Systems of Alabama, or his or her designee; one retired chief executive officer of an

insurance company with expertise in the field of workers' compensation, who shall be appointed jointly by the President of the Senate and the Speaker of the House of Representatives; and one member appointed by the Governor. The members shall take office only after having been confirmed by the Alabama Senate. Any vacancy in an appointed membership on the board shall be filled in the manner in which the original appointment was made. The appointed members of the board shall serve six-year terms. A member of the board who is not appointed jointly by the Lieutenant Governor and the Speaker of the House of Representatives or appointed by the Governor shall serve until he or she ceases to hold the office which qualified him or her for membership on the board.

(b) Except as provided by subsection (c), to be eligible for appointment by the Governor as a member of the board a person shall be a policyholder of the authority, or an officer or employee of a policyholder, and shall maintain that status during the period of service on the board. Failure to maintain that status disqualifies the board member and creates a vacancy on the board.

(c) The initial appointee by the Governor to the board shall be an employer in this state.

(d) A person may not be appointed by the Governor to serve as a member of the board if the person, an individual related to the person within the second degree by consanguinity or affinity, or an individual residing in the same household with the person:

(1) Is required to be registered or licensed under Title 27 of the Code of Alabama 1975.

(2) Is employed by or acts as a consultant to a person required to be registered or licensed under Title 27 of the Code of Alabama 1975.

(3) Owns, controls, has a financial interest in, or participates in the management of an organization required to be registered or licensed under Title 27 of the Code of Alabama 1975.

(4) Receives a substantial tangible benefit from the authority.

(5) Is an officer, employee, or consultant of an association in the field of insurance.

(e) Subsection (d) does not prohibit a person who is only a consumer of insurance or insurance products from being appointed by the Governor to serve as a member of the board.

(f) A person who is ineligible to be appointed by the Governor to serve on the board under subsection (d) may not be appointed by the Governor to the board for one year after the date on which the condition that makes the person ineligible ends.

(g) Each member of the board shall receive actual and necessary expenses incurred in the performance of the member's duties.

(h) The members of the board shall elect annually from their number, a chair, a vice-chair, and a secretary.

(i) The board shall hold meetings at least once each month, and at other times at the call of the chair or established by board rule. Special meetings may be called by any two members of the board on two days' notice.

(j) A majority of the board members constitutes a quorum.

(k) The board shall maintain the principal office of the authority in the State of Alabama.

Section 4. POWERS AND PURPOSE. (a) Pursuant to this act and its plan of operation, the board shall, on behalf of the authority do all of the following:

(1) Provide for the acceptance of applications and delivery or issuance for delivery in this state of workers' compensation insurance and for the transaction of workers' compensation insurance business to the same extent as any other insurance carrier transacting workers' compensation insurance business in this state.

(2) Propose rates for workers' compensation insurance issued by the insurance.

(3) Appoint the president of the authority.

(4) Adopt necessary bylaws and rules for the operation of the authority.

(5) Delegate specific responsibilities to the president of the authority.

(6) Develop a general plan of operation, in accordance with Section 5, to assure the orderly management and operation of the authority.

(7) Upon the recommendation of the president, establish the operating budget.

(8) Approve or disapprove all contracts negotiated by the president.

(9) Establish the office of Chief Investment Officer, who shall report directly to the board, and establish the duties and responsibilities of the office.

(10) Appoint the Chief Investment Officer.

(11) Exercise any other powers necessary to conduct a workers' compensation insurance business in the state of Alabama.

(b) The authority may not have interlocking boards of directors, spinoffs, or subsidiaries that write any lines of insurance other than workers' compensation insurance.

Section 5. PLAN OF OPERATION. The initial board shall prepare and adopt a plan of operation that is consistent with this act. The plan shall provide for:

(1) Economic, fair, and nondiscriminatory administration of the authority and its duties.

(2) Prompt and efficient provision of workers' compensation insurance.

(3) Establishment of necessary facilities.

(4) Management of the authority.

(5) Reasonable and objective underwriting standards.

(6) Obtainment of reinsurance.

Section 6. PRESIDENT AND CHIEF EXECUTIVE OFFICER.

(a) The board shall appoint a person to serve at its pleasure as president and chief executive officer. The president shall appoint other officers necessary to manage the authority prudently.

(b) To be eligible for appointment as president, an individual

shall have at least 10 years of administrative or professional experience and training and experience in the field of insurance.

(c) The president shall manage and conduct the affairs of the authority under the general supervision of the board and shall perform duties as provided by this act and as directed by the board.

(d) In addition to any other duties provided by this act or by the board, the president shall:

(1) Hire employees as necessary to conduct the business and implement this act.

(2) Receive and approve applications for workers' compensation insurance and issue policies to applicants who are eligible for workers' compensation insurance provided by the authority.

(3) With the approval of the board, negotiate contracts on behalf of the authority.

(4) Issue renewals of workers' compensation insurance for those who qualify for renewal.

(5) Process and pay valid claims according to the rules of the board and the appropriate workers' compensation insurance laws.

(6) Collect premiums for workers' compensation insurance issued or renewed by the authority.

(7) Collect and compile statistical information relating to the authority and provide this information to the board.

(e) In addition to any other power provided by this act, or by the board, the president shall have full power and authority, in the name of the authority, to:

(1) Sue and be sued in all of the courts of the state in all actions arising out of any act, deed, matter, or things made, omitted, entered into, done, or suffered in connection with the authority and its administration, management, or conduct of its business and affairs.

(2) Delegate to any officer of the authority, subject to any conditions prescribed by the president, any of the powers, functions, or duties conferred or imposed on the president under this act in connection with the authority, its administration, management, and conduct of

business or related affairs. Any officer to whom such a delegation is made may exercise the delegated powers with the same force and effect as the president, subject to approval by the president.

(3) Inspect and audit employers who apply to the authority for issuance of workers' compensation insurance or who seek renewal of that insurance.

(4) Purchase reinsurance from insurance carriers admitted or accredited to reinsure risks in this state.

(5) Cancel or refuse to renew workers' compensation insurance if a risk does not comply with a board-approved plan or any provision of this act.

(6) Enter into contracts on behalf of the authority.

(7) Draft guidelines relating to the settlement of claims against the authority.

(8) Perform any other acts authorized by the board to implement this act and the rules promulgated by the board.

Section 7. APPLICATIONS. (a) Applications to the authority shall be submitted on forms prescribed by the board. Applications shall be made directly by the applicant.

(b) The authority shall adopt any rules required to provide for the financing of all or part of the premiums by the authority. Those rules shall require that the authority receive a minimum initial premium sufficient to cover the administrative costs of issuing and booking the policy in the event of cancellation.

(c) If the premium is financed by the authority as provided by subsection (b), the deferred payment shall earn interest payable to the authority at a rate annually determined by the board based on the auction rate quoted on a discount basis for 52-week treasury bills issued by the United States government, as published by the Federal Reserve Board on the date nearest to the date on which the interest rate is determined.

(d) If an applicant is identified as a credit risk, the authority may refuse to write insurance coverage if the applicant does not:

(1) Pay the total estimated premium and related charges before the policy is issued.

(2) Provide security for payment of the total estimated premium and related charges before the policy is issued.

Section 8. RATES. (a) Except as otherwise provided by this section, the president, with the approval of the board, may propose rates to be charged by the authority for workers' compensation insurance. The president shall engage the services of an independent actuary who is a member in good standing with the Casualty Actuarial Society or the American Academy of Actuaries to develop and recommend actuarially sound rates.

(b) Rates shall be set in amounts sufficient, when invested, to carry all claims to maturity, meet the reasonable expenses of conducting the business of the authority, and maintain a reasonable surplus.

(c) Notwithstanding any other provision of this act, the authority may establish multitiered premium systems to provide workers' compensation insurance to insureds who would not otherwise meet the authority's underwriting standards. The systems may provide for higher premium payments by insureds who present higher than normal risks within a class.

Section 9. ACCIDENT PREVENTION. (a) The authority shall make and enforce rules for the prevention of injuries to employees of its policyholders or applicants for insurance under this act. For this purpose, representatives of the authority shall on reasonable notice be granted free access to the premises of each policyholder or applicant during regular working hours.

(b) Failure or refusal by any policyholder or applicant to comply with any rule prescribed by the authority for the prevention of injuries, or failure or refusal to make full disclosure of all information pertinent to the insuring or servicing of the policyholder or applicant, constitutes sufficient grounds for the authority to cancel a policy or deny an application for insurance.

Section 10. CONTROL OF FRAUD. (a) The authority shall develop and implement a program to identify and investigate fraud and violations of this act relating to workers' compensation insurance by an applicant, policyholder, claimant, agent, or insurer.

(b) The Attorney General shall be responsible for the prosecution of criminal violations of this act.

(c) Any restitution collected or penalties imposed upon any con-

viction shall be deposited in the authority to offset the costs of implementing this act.

Section 11. PAYMENT OF TAXES AND FEES; GUARANTY ASSOCIATION. The authority shall pay all taxes and fees, or any payments due in lieu of taxes in the same manner as an insurance carrier authorized and admitted by the State Department of Insurance to do insurance business in this state under a certificate of authority that includes authorization to write workers' compensation insurance.

Section 12. FINANCIAL ADMINISTRATION. (a) No money acquired for the implementation of this act may be obtained from or through the General Fund of the State of Alabama, the State Education Trust Fund, or any other state operating funds.

(b) Revenues of the authority consist of:

(1) Premiums paid to the authority by employers for workers' compensation authority.

(2) Investments and money earned from investments of the insurance.

(3) Money received from the issuance and sale of bonds under this act.

(4) Any other money received by the authority

(b) Administrative expenses of the authority shall be paid from the authority at the direction of the board.

(c) Money in the authority shall be paid from the authority, without legislative appropriation, on vouchers approved by the board. The money shall be held exclusively for the purposes stated in this act and may not be used or appropriated for any other purpose.

(d) Money in the authority shall be invested, subject to a policy approved by the board.

(e) The authority shall establish and maintain reserves for losses on an actuarially sound basis.

(f) The authority may pay cash dividends or allow a credit on renewal premium for each policyholder insured with the authority other than a policyholder insured under Section 18 of this act.

(g) If the authority incurs a deficit for any reason, no other insurer is liable for or subject to an assessment for that deficit.

Section 13. REPORT TO BOARD. The president shall make periodic reports to the board with regard to the status of the authority and its investments.

Section 14. ANNUAL REPORT; OTHER REPORTS. (a) Not later than the 30th day after the date on which the authority's fiscal year ends, the board shall publish a report analyzing the authority's activities and fiscal condition during the preceding fiscal year. The board shall have an independent audit made of each report.

(b) The authority shall file with the State Department of Insurance all reports required of other workers' compensation insurers.

Section 15. ASSISTANCE FROM THE DEPARTMENT OF INSURANCE. On the request of the board, the State Department of Insurance shall provide technical assistance to the board and the president as reasonably necessary to implement this act.

Section 16. AUTHORITY SOLVENCY. (a) In addition to other regulatory authority granted the Commissioner of Insurance, if the commissioner finds that the authority does not own assets at least equal to all liabilities and required reserves, together with the minimum basic surplus required under this act, or that the condition of the authority is such that continuing operation of the authority is hazardous to the public or to the policyholders of the authority, the commissioner shall notify the president and the board of the findings and furnish the board with a written list of the commissioner's recommendations to abate the problems.

(b) If the board fails to comply with the recommendations of the commissioner not later than the 60th day after the date of the recommendations, the commissioner shall notify the Governor, the Lieutenant Governor, and the Speaker of the House of Representatives of the recommendations with which the board is not in compliance, together with solutions and estimations of all fiscal implications.

Section 17. APPLICABILITY OF OTHER STATUTES.

(a) The authority is an insurance company for purposes of the Alabama Workmen's Compensation Act and specifically for purposes of Section 25-5-8, Code of Alabama 1975.

(b) All regulatory authority granted the Commissioner of Insur-

ance relating to a stock or mutual insurance company is applicable to the authority.

- (c) The authority is not a state agency.

Section 18. AUTHORITY AS INSURER OF LAST RESORT.

(a) The authority may not, except as otherwise provided by this act and by any other provision of law, refuse to insure any risk that tenders the necessary premium and any applicable accident prevention service fees.

(b) If an applicant to the authority would be rejected for workers' compensation insurance under the authority's underwriting standards, the risk may not be rejected, but shall be insured at a higher premium as provided by the authority's rules. The risk may be required to meet other conditions considered necessary to protect the authority's interests.

(c) The authority shall develop statistical and other information as necessary to allow the authority to distinguish between its writings in the voluntary market and its writings as the insurer of last resort.

(d) The board shall develop and publish classification relativities specifically designed for the risks insured under this act.

Section 19. LEGISLATIVE FINDING; PURPOSE. The Legislature finds that the issuance of bonds for the purposes of providing a method to raise funds to provide workers' compensation insurance coverage through the Alabama Employers Mutual Workers' Compensation Insurance Authority and workers' compensation insurance coverage for employers in this state is for the benefit of the public and in furtherance of a public purpose. The Legislature finds that this act is a revision of the Alabama Workers' Compensation Law, Sections 25-5-1 to 25-5-273, inclusive, and any provision thereof in conflict with this act is superceded.

Section 20. DEFINITIONS. As used in Sections 19 to 29, inclusive, of this act, the following words and phrases have the following meanings:

(1) **AUTHORITY.** The Alabama Employers Mutual Workers' Compensation Insurance Authority created pursuant to this act.

(2) **BOARD.** The board of directors of the Alabama Employees Mutual Workers' Compensation Insurance Finance Authority.

(3) **INSURANCE FINANCE AUTHORITY.** The Alabama Employers Mutual Workers' Compensation Insurance Finance Authority.

Section 21. There is hereby created the Alabama Employers Mutual Workers' Compensation Insurance Finance Authority. The insurance finance authority is created with the powers provided in this act. The insurance finance authority shall be governed by a board of directors composed of the Governor, the Director of Finance, the State Treasurer, one member appointed by the Lieutenant Governor, and one member appointed by the Speaker of the House of Representatives. Except as provided elsewhere in this act, the insurance finance authority shall have the following powers:

(1) To have succession in its name until the principal of and interest on all bonds issued by it shall have been fully paid and until it shall have been dissolved.

(2) To maintain actions and have actions maintained against it and to prosecute and defend in any court having jurisdiction of the subject matter and of the parties thereof.

(3) To have and to use a seal and to alter such seal at pleasure.

(4) To establish a fiscal year.

(5) To acquire and hold title to real and personal property and to sell, convey, mortgage, or lease the property.

(6) To appoint a bank or savings and loan association as a depository for funds of the authority.

(7) To invest the proceeds from the sale of its bonds pending need therefor.

(8) To appoint and employ any attorneys, agents, and employees as the business of the authority may require.

Section 22. **BONDS AUTHORIZED.** On behalf of the authority, the insurance finance authority may issue revenue bonds to:

(1) Establish the initial surplus of the authority.

(2) Establish and maintain reserves.

(3) Pay initial operating costs.

- (4) Pay costs related to issuance of the bonds.
- (5) Pay other costs related to the bonds as may be determined by the board.

Section 23. CONDITIONS. (a) Bonds may be issued at public or private sale.

(b) Bonds may mature not more than 20 years after the date issued.

(c) Bonds shall be issued in the name of the insurance.

Section 24. ADDITIONAL COVENANTS. In a bond resolution, the board may make additional covenants with respect to the bonds and the designated income and receipts of the authority pledged to their payment and may provide for the flow of funds and the establishment, maintenance, and investment of funds and accounts with respect to the bonds.

Section 25. SPECIAL ACCOUNTS. (a) A bond resolution may establish special accounts including an interest and sinking fund account, reserve account, and other accounts.

(b) The president of the authority, or the president's designee, along with the Chief Investment Officer, shall administer the accounts in accordance with this act.

Section 26. LIABILITY FOR REPAYMENT OF BONDS. (a) Bonds are obligations solely of the authority. Bonds do not create a pledging, giving, or lending of the faith, credit, or taxing authority of this state.

(b) Each bond shall include a statement that the state is not obligated to pay any amount on the bond and that the faith, credit, and taxing authority of this state are not pledged, given, or lent to those payments.

(c) Each bond issued under this act shall state on its face that the bond is payable solely from the revenues pledged for that purpose and that the bond does not and may not constitute a legal or moral obligation of the state.

Section 27. TAX EXEMPT. The bonds issued under this act, and any interest from the bonds, and all assets pledged to secure the

payment of the bonds are exempt from taxation by the state or any political subdivision of this state.

Section 28. All laws or parts of laws which conflict with this act are repealed.

Section 29. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Senator deGraffenried offered the following amendment to the substitute for the Bill, SB 25, to-wit:

AMENDMENT TO SUBSTITUTE FOR SB 25

Amend the substitute for Senate Bill 25, Section 3, by deleting on page 2, line 21 the words "Alabama Medical Association" and inserting "Medical Association of the State of Alabama".

Further amend the substitute on page 2, line 22, by deleting the words "Business Council of Alabama" and inserting in lieu thereof the words "Alabama Independent Insurance Agents".

Further amend the substitute on page 2, line 27, by deleting the words "retired chief" and inserting in lieu thereof the word "former".

Further amend the substitute for Senate Bill 25, Section 3 by inserting on page 4 at line 22, the following:

"(l) In no event shall any person be eligible for the Board of Directors as provided herein once such person has served on the initial Board which makes the report to the Legislature as provided in Section 28 below."

Further amend the substitute for Senate Bill 25 on page 15 by inserting a new Section 28 and the present Sections 28 and 29 are renumbered accordingly with the new Section 28 being inserted on page 15, line 25 as follows:

"Section 28. Notwithstanding the foregoing, the implementation of Sections 4(a)(11) on page 5, line 16, Section 6(d)(2) on page 6, line 17, Section 6(d)(4) on page 6, line 23, Section 6(e)(4) on page 7, line 20 shall not become effective until the occurrence of the following:

1. A report by the Board of Directors created in Section 3 above

as to the cost and feasibility of implementing the foregoing provisions of this Act. The report shall be delivered to the Legislature at least 30 days before the start of the 1993 Regular Session. The agencies of the State shall make available to the said Board such information and data as the Board deems necessary to such report.

2. The enactment by the Legislature of an Act implementing Sections 4(a)(11) on page 5, line 16, Section 6(d)(2) on page 6, line 17, Section 6(d)(4) on page 6, line 23, Section 6(e)(4) on page 7, line 20, of this Act."

Which was adopted.

And said substitute, as amended, was then adopted.

Yeas 26 Nays 1

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Floyd, Foshee, Ghee, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Sanders, Smith (J), Waggoner, and Wilson -26

Nay: Senator Preuitt

- 1

And said Bill, SB 25, as amended by the substitute, as amended, was read a third time at length and passed and ordered sent forthwith to the House upon engrossment.

Yeas 22 Nays 6

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Floyd, Foshee, Ghee, Hilliard, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Parsons, Sanders, Smith (J), and Wilson -22

Nays:

Senators:

Amari, Dixon, Ellis, Little, Preuitt, and Waggoner

- 6

MOTION TO ADJOURN

Senator deGraffenried moved that when the Senate adjourns today,

it adjourn to meet again on Friday, January 31, 1992, at 10 o'clock A.M., which motion was adopted.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 11. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bill in the order named shall be the paramount and continuing order of business taking precedence over all other matters for the fourth legislative day of the 1992 First Special Session only:

Inst Id	Page
S. 12	6
County commissions with single-memb. dists., co. comm. auth. to alter by resolution, procedure	

On motion of Senator Preuit, the Resolution was adopted by the Senate.

**SPECIAL ORDER
BILLS ON THIRD READING RESUMED**

The Senate proceeded to consideration of the second special, paramount, and continuing order of business for today, which was the Bill:

S. 12. To provide that county commissions which are currently elected from single-member districts may alter the boundaries of their respective districts.

Senator Sanders offered the following substitute for the Bill, SB 12, to-wit:

SUBSTITUTE FOR SB 12

**A BILL
TO BE ENTITLED
AN ACT**

To provide that county commissions which are currently elected

from single-member districts may alter the boundaries of their respective districts.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Following the release of any federal decennial census, any county commission of this state which is at that time electing its members from single-member districts, pursuant to either state or local law or a court order, may, by resolution, alter the boundaries of the districts.

Section 2. Any revised single-member district arrangement to be used, in whole or in part, in the 1992 primary and general election shall be adopted by the county commission not later than 75 days prior to the primary election in 1992. Any revised district arrangement to be used, in whole or in part, for the first time in any year after 1992 shall be approved by the county commission not later than 180 days prior to the primary election in which it will first be used.

Section 3. No resolution making changes in the boundaries of existing districts shall be adopted by the county commission unless the commission shall first have advertised in a newspaper of general circulation in the county for at least two consecutive weeks the time and place of the meeting at which the resolution shall be considered. The advertisement shall include one or both of the following items: (1) A map of the county indicating the proposed district boundaries. (2) Notification that a map indicating the proposed district boundaries is available for inspection at a specified public location where the map shall be displayed for at least two consecutive weeks preceding the meeting of the commission at which the resolution shall be considered.

Section 4. Any resolution making changes in district boundaries shall describe the revised district boundaries by reference to standard census units or county voting precincts, or both.

Section 5. Upon passage of any resolution effecting changes in district boundaries pursuant to this act, the county commission shall file with the judge of probate of the county a certified copy of the resolution, together with a map of the county showing the boundaries of the revised districts.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon is otherwise becoming a law.

Which was adopted.

**FIRST EXTRAORDINARY SESSION
4th Day**

67

Yeas 26 Nays 0

Yeas:

Senators:

Amari, Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Floyd, Foshee, Ghee, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Waggoner, and Wilson
-26

Nays:

- 0

And said Bill, SB 12, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 26 Nays 0

Yeas:

Senators:

Amari, Bailey, Barron, Bennett, Bolling, Corbett, deGraffenried, Denton, Dixon, Floyd, Foshee, Ghee, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (J), Waggoner, and Wilson
-26

Nays:

- 0

BILLS ON THIRD READING RESUMED

Senator Bailey requested and received permission to suspend the Rules in order to bring up the Bill:

S. 14. To amend Section 26-16-30 of the Code of Alabama 1975, relating to the Children's Trust Fund, to provide for the investment of trust fund money.

And said Bill, SB 14, was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Barron, Bennett, Bolling, Campbell, Corbett, Denton, Dixon, Ellis, Floyd, Ghee, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (J), Waggoner, and Wilson
-25

Nays:

- 0

ADJOURNMENT

At 11:25 P.M., on motion of Senator Denton, in accordance with Motion heretofore adopted, the Senate adjourned until Friday, January 31, 1992, at 10 o'clock A.M.

FIFTH LEGISLATIVE DAY
FRIDAY, JANUARY 31, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by Senator Jack Floyd, Tenth Senatorial District.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Thomas Edward Corbett, Macon Academy, Tuskegee, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), Smith (J), Waggoner, and Wilson

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**REPORT OF COMMITTEE
ON RULES ON
REVISION OF THE JOURNAL**

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Fourth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator deGraffenried, leave of absence was granted Senators Sanders and Windom for today.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 12. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bill in the order named shall be the paramount and continuing order of business taking precedence over all other matters for the fifth legislative day of the 1992 First Special Session only:

H. 1

Workers' compensation, substantially revised, admin. law judges estab., ct. procedure alt., medical charges capped, numerous secs. of Title 25 am'd. and repealed

Page
7

On motion of Senator Preuitt, the Resolution was adopted by the Senate.

**SPECIAL ORDER
BILLS ON THIRD READING**

The Senate proceeded to consideration of the special, paramount, and continuing order of business for today, which was the Bill:

H. 1. To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 2, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation specialist program, mandatory benefit review conferences, and adjudication of claims by

administrative law judges within the Division of Workers' Compensation of the Department of Industrial Relations; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, to repeal Sections 25-5-6, 25-5-12, 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, 25-5-88, 25-5-89, 25-5-91, 25-5-92, 25-5-93, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975; to limit payment of health providers to not more than the prevailing rates of reimbursement for services provided, as specified; to specifically limit claims for mental disorders or injuries to disorders or injuries produced or proximately caused by some physical injury to the body; to provide that gradual deterioration or cumulative physical stress disorders shall be deemed compensable only upon a finding of clear and convincing evidence and to provide further for the statute of limitations for injuries due to cumulative physical stress; to make general contractors liable for workers' compensation benefits for employees of uninsured subcontractors; to specify the benefits for volunteer fire fighters or rescue squad members; to abolish the second injury trust fund; to extend from one to two years the statute of limitations for compensation for occupational diseases; to establish a workplace safety program for employers; to create a Medical Services Board in the Department of Industrial Relations which will provide for a maximum fee schedule; and to provide for civil immunity for members and employees of the board and to provide for certain implementation dates for various sections of the act.

The Standing Committee on Business and Labor Relations reported the following amendment No. 2 to the Bill, HB 1, to-wit:

AMENDMENT NO. 2 TO HB 1

Amend House Bill 1, on Page 102, Line 31 as follows:

delete "65(d)" and insert "70(d)"

Which was adopted.

Yeas 22 Nays 1

Yeas:

Senators:

Amari, Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Ghee, Hale, Hilliard, Horn, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuit, Smith (B), and Wilson -22

Nay: Senator Foshee

- 1

The Standing Committee on Business and Labor Relations then

reported the following amendment No. 1 to the Bill, HB 1, as amended, to-wit:

AMENDMENT NO. 1 TO HB 1, AS AMENDED

On page 15, delete lines 12 through 21 in their entirety and insert in lieu thereof:

reasonable, adequate, and not excessive. All filings with the Department of Insurance containing aggregate industry data of classifications of risks and premiums, rates, and merit-rating schedules pertaining to workers' compensation insurance shall be public record, notwithstanding any other provisions of Alabama law. Prior to approval of any bureau loss cost or rate filing related to workers' compensation insurance, the Commissioner of the Department of Insurance may convene a public hearing with reasonable public notice for the purpose of considering public testimony and other evidence relevant to the filing pending. Within 10 days

Which was adopted.

Yeas 27 Nays 1

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Ghee, Hale, Hilliard, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Smith (B), Waggoner, and Wilson

-27

Nay: Senator Foshee

- 1

Senator Floyd offered the following amendment to the Bill, HB 1, as amended, to-wit:

AMENDMENT TO HB 1, AS AMENDED

Amend House Bill 1, as amended, on page 2, by deleting lines 25-34 and on page 3, by deleting lines 1-22.

Which was lost.

Yeas 14 Nays 17

Yeas:

Senators:

Bedsole, Bennett, Corbett, Figures, Floyd, Foshee, Ghee, Hilliard,

Horn, Langford, Lindsey, Mitchell, Parsons, and Wilson

-14

Nays:

Senators:

Amari, Bailey, Barron, Bolling, deGraffenried, Denton, Dial, Dixon, Ellis, Hale, Lipscomb, Little, Owens, Preuit, Smith (B), Smith (J), and Waggoner

-17

Senator Lindsey offered the following amendment to the Bill, HB 1, as amended, to-wit:

AMENDMENT TO HB 1, AS AMENDED

Amend HB 1, as amended, on Page 31 Lines 3 through 29 by striking the following: all the language in Section 18 and by adding the following:

Section 18. Section 25-5-36, Code of Alabama 1975,

"Section 25-5-36.

"In all actions of law brought pursuant to this article, the burden of proof to establish the willful misconduct or other misconduct as defined in ~~section~~ Section 25-5-51, of the injured employee shall be upon the defendant.

"In case of personal injury by accident, as defined in Section 25-5-1, or by occupational disease, as defined in Section 25-5-110, all actions not filed within two years after the accident, or after the last date of exposure proximately resulting in the injury or occupational disease, shall be forever barred."

"If an employer continues the salary of an injured employee during the benefit period or pays similar compensation during the benefit period in lieu of worker's compensation benefits, it shall be allowed a setoff in weeks against the compensation owed under this article. This setoff shall be allowed for an award of back pay received by the employee during the benefit period."

"An employee shall be allowed to waive future medical benefits subject to the approval of the court upon a finding that it is in the employee's best interest."

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said

Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 25. To establish the Alabama Employers Mutual Workers' Compensation Insurance Authority to provide workers' compensation insurance in Alabama and to create the Alabama Workers' Compensation Insurance Finance Authority to issue bonds for that purpose.

JIM PREUITT,
Chairperson.

FURTHER CONSIDERATION OF HB 1

The Senate proceeded to further consideration of the Bill, HB 1, as amended. The question was on the Lindsey amendment.

RECESS

At 12 o'clock Noon, on motion of Senator deGraffenried, the Senate took a recess until 2 o'clock P.M.

At 2 o'clock P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

FURTHER CONSIDERATION OF HB 1

The Senate proceeded to further consideration of the Bill, HB 1, as amended. The question was on the Lindsey amendment.

RECESS

At 2:30 P.M., on motion of Senator deGraffenried, the Senate took a recess subject to the call of the Chair.

At 4:15 P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

FURTHER CONSIDERATION OF HB 1

The Senate proceeded to further consideration of the Bill, HB 1, as amended. The question was on the Lindsey amendment.

On motion of Senator Corbett, the Rules were suspended and fur-

ther consideration of the Bill, HB 1, as amended, and pending Lindsey amendment, was postponed subject to the call of the Chair.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Smith (R), Ford, and Bugg (With Notice and Proof):

H. 8. Relating to Etowah County, to provide that the office of Mayor of Rainbow City shall be full-time and to provide further for the compensation of the Mayor.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 8, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 8 - to the Committee on Local Legislation No. 1

REPORTS OF COMMITTEES

Senator Campbell, Chairperson of the Standing Committee on Local Legislation No. 1, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Reps. Hall, Butler, Grayson, and Freeman (With Notice and Proof):

H. 14. Relating to Madison County; prohibiting alcoholic beverage traffic in any private or public lounge, tavern, bar, club,

nightclub or restaurant in certain unincorporated areas of the county that features or otherwise permits topless females on its premises.

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the following Senate Joint Resolutions and returns same herewith to the Senate:

SJR 1. COMMITTEE TO NOTIFY GOVERNOR AND ASCERTAIN DESIRE FOR JOINT SESSION.

Also:

SJR 2. COMMITTEE APPOINTED TO ESCORT GOVERNOR TO JOINT SESSION OF THE LEGISLATURE.

Also:

SJR 3. MOURNING THE DEATH OF WATKINS COOK JOHNSTON OF MONTGOMERY, ALABAMA.

Also:

SJR 5. COMMENDING BETTY SHIRLEY OF TUSCALOOSA, ALABAMA.

Also:

SJR 6. COMMENDING GLYNN C. DEBTER OF BLOUNT COUNTY, ALABAMA.

Also:

SJR 7. REQUESTING THE RELEASE OF ALL GOVERNMENTAL MATERIAL CONCERNING THE ASSASSINATIONS OF PRESIDENT JOHN F. KENNEDY AND DR. MARTIN LUTHER KING, JR.

Also:

SJR 8. RECOGNIZING THE ALABAMA JUNIOR COLLEGE ATHLETIC HALL OF FAME.

**GREG PAPPAS,
Clerk.**

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Reps. Black (M), Anderson, Barnes, Beasley, Biddle, Black (L), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holley, Holmes, Hooper, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis, and Zoghby:

HJR 39. EXTENDING CONGRATULATIONS TO THE HONORABLE AND MRS. HUGH HOLLADAY OF PELL CITY, ALABAMA, ON THE BIRTH OF A DAUGHTER, KATHRYN HASTINGS HOLLADAY.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Corbett, the Rules were suspended and the Resolution, HJR 39, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Reps. Cosby, Thomas, Bryant, Anderson, Barnes, Beasley, Biddle,

Black (L), Black (M), Blakeney, Bowling, Box, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis, and Zoghyby:

HJR 33. COMMENDING HAMMERMILL PAPER COMPANY ON ITS 25TH ANNIVERSARY.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Corbett, the Rules were suspended and the Resolution, HJR 33, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Reps. Hooper, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell,

McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis, and Zoghby:

HJR 35. COMMENDING MARY GIRDNER FOR DISTINGUISHED SERVICE TO THE ALABAMA LEGISLATURE, THE STATE OF ALABAMA AND HER COMMUNITY.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Corbett, the Rules were suspended and the Resolution, HJR 35, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Reps. Ford, Smith (R), and Bugg:

HJR 29. COMMENDING ANGIE E. ELROD FOR OUTSTANDING ACHIEVEMENT.

Also:

By Rep. Clay:

HJR 36. DESIGNATING "ALABAMA TRIO DAY" IN THE STATE OF ALABAMA.

Also:

By Reps. Venable and Mikell:

HJR 38. NAMING THE "COOSA RIVER PARKWAY" IN ELMORE COUNTY.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Corbett, the Rules were suspended and the Resolutions, HJR's 29, 36, and 38, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Reps. Venable, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Walker, Warren, White, Williams, Willis, and Zoghby:

HJR 32. MOURNING THE DEATH OF SPURGEON L. MORGAN OF TALLASSEE, ALABAMA.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Corbett, the Rules were suspended and the Resolution, HJR 32, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

BILLS ON THIRD READING RESUMED

Senator Dial requested and received permission to suspend the

Rules in order to bring up the Bill:

H. 11. Relating to the City of Centre in Cherokee County, Alabama; altering and rearranging the boundary lines and corporate limits of the City of Centre by adding certain parcels of land; providing for an advisory referendum approval by a majority of the qualified electors residing within the territory proposed to be brought within the city boundaries; and providing for an effective date.

And said Bill, HB 11, was read a third time at length and passed.

Yeas 25 Nays 0

Yeas:

Senators:

Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, and Preuitt -25

Nays:

- 0

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 12. To provide that county commissions which are currently elected from single-member districts may alter the boundaries of their respective districts.

JIM PREUITT,
Chairperson.

RESOLUTION

Senator Wilson offered the following Senate Joint Resolution, to-wit:

SJR 13. COMMENDING JOHN AND SUZANNE PEARSON OF BENEVOLA, ALABAMA.

WHEREAS, the Legislature of Alabama notes with pride the selec-

tion of John and Suzanne Pearson of Benevola, Alabama, as Outstanding Young Farm Family in Alabama for 1991, an honor bestowed annually by the Alabama Farmers Federation in recognition of achievement in farm, home and community activities; and

WHEREAS, John Pearson, a third generation Pickens County farmer, and his wife Suzanne are the sole operators of a thriving 440-acre farm in Benevola consisting of over 400 acres of loblolly pines; they also own and operate six broiler houses and are a major producer for Peco Farms in nearby Gordo, and farm in partnership with Mr. Pearson's father in a cotton and beef cattle operation; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That for outstanding contributions to the farming industry, and as Outstanding Young Farm Family in Alabama for 1991, we hereby commend and congratulate John and Suzanne Pearson of Benevola, Alabama, to whom a copy of this resolution of sincere praise shall be presented.

On motion of Senator Wilson, the Rules were suspended and the Resolution was adopted by the Senate.

FURTHER CONSIDERATION OF HB 1

The Senate proceeded to further consideration of the Bill, HB 1, as amended. The question was on the Lindsey amendment.

ADJOURNMENT

At 4:25 P.M., on motion of Senator Corbett, in accordance with Motion heretofore adopted, and pending further consideration of the Bill, HB 1, the Senate adjourned until Saturday, February 1, 1992, at 11 o'clock A.M.

SIXTH LEGISLATIVE DAY
SATURDAY, FEBRUARY 1, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by Senator George Bolling, Sixth Senatorial District.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Misty Parsons, Montgomery Academy, Montgomery, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuitt, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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**REPORT OF COMMITTEE
ON RULES ON
REVISION OF THE JOURNAL**

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Fifth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator Dixon, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator Dixon, leave of absence was granted Senators Figures, Ghee, Parsons, and Sanders for today.

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the following Senate Joint Resolution and returns same herewith to the Senate:

SJR 13. COMMENDING JOHN AND SUZANNE PEARSON OF BENEVOLA, ALABAMA.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE HOUSE

Mr. President:

The House has passed the following Senate Bills and returns same herewith to the Senate:

S. 8. Relating to supernumerary district attorneys of the fourteenth (14th) judicial circuit; to provide a salary supplement equal to the salary supplement paid to supernumerary district attorneys of the tenth (10th) judicial circuit; and to specifically repeal Act No. 91-644, S. 695, of the 1991 Regular Session.

Also:

S. 9. Relating to Jefferson County; to create the "Metropolitan Rapid Rail Study Commission" for the county; to provide for the

powers, duties, functions, finances, and membership of the commission.

Also:

S. 11. Relating to the City of Linden in Marengo County, to establish an investment trust fund to receive certain proceeds derived from a sale/purchase agreement between the City of Linden, the utilities board of the City of Linden and Alabama Gas Corporation, and from other lawful sources; to provide for legal investments for said fund; and to provide procedures for the expenditure of interest and principal from said fund.

Also:

S. 13. Relating to Jefferson County; amending Sections 4 and 5 of Act No. 765, H. 675, 1969 Regular Session (Acts 1969, p. 1358) creating a public bureau for the purpose of attracting conventions and visitors to every county having a population of 500,000 or more, to permit any county with area within the metropolitan area of the largest city in the county within the population span to come under this act; and to provide further for the board of directors of the bureau.

GREG PAPPAS,
Clerk.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Joint Resolutions with the original Senate Joint Resolutions, and finds same correctly enrolled, to-wit:

SJR 3. MOURNING THE DEATH OF WATKINS COOK JOHNSTON OF MONTGOMERY, ALABAMA.

Also:

SJR 5. COMMENDING BETTY SHIRLEY OF TUSCALOOSA, ALABAMA.

Also:

SJR 6. COMMENDING GLYNN C. DEBTER OF BLOUNT COUNTY, ALABAMA.

Also:

SJR 7. REQUESTING THE RELEASE OF ALL GOVERNMENTAL MATERIAL CONCERNING THE ASSASSINATIONS OF PRESIDENT JOHN F. KENNEDY AND DR. MARTIN LUTHER KING, JR.

Also:

SJR 8. RECOGNIZING THE ALABAMA JUNIOR COLLEGE ATHLETIC HALL OF FAME.

JIM PREUITT,
Chairperson.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing Senate Joint Resolutions, the titles of which are set out in the foregoing report from the Committee on Rules.

IN MEMORIAM

WATKINS COOK JOHNSTON

1907 - 1991

ALABAMA STATE SENATE

1939

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Joint Resolution, your signature thereto is requested.

HJR 2. COMMITTEE APPOINTED TO NOTIFY GOVERNOR LEGISLATURE IS IN SESSION.

GREG PAPPAS,
Clerk.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolution, the title of which is set out in the foregoing Message from the House.

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Joint Resolution, your signature thereto is requested.

HJR 3. INVITATION FOR JOINT ADDRESS.

GREG PAPPAS,
Clerk.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolution, the title of which is set out in the foregoing Message from the House.

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Joint

Resolutions, your signature thereto is requested.

HJR 6. COMMENDING LANCE CORPORAL JOSEPH RICHARD RUTLAND, RECIPIENT OF THE BRONZE MEDAL.

Also:

HJR 7. NAMING THE "L. C. LAUDERDALE, SR., HIGHWAY."

Also:

HJR 8. CONGRATULATING LUVERNE HIGH SCHOOL AS ALABAMA'S 1991 STATE 3-A FOOTBALL CHAMPIONS.

Also:

HJR 9. CONGRATULATING MCKENZIE HIGH SCHOOL AS 1991 ALABAMA STATE 1-A FOOTBALL CHAMPIONS.

Also:

HJR 22. COMMENDING LEONARD D. TRIONE FOR OUTSTANDING COMMUNITY SERVICE.

Also:

HJR 23. COMMENDING DUDLEY MCLEOD HOWELL ON THE OCCASION OF HIS RETIREMENT.

Also:

HJR 24. COMMENDING ALABAMA STATE UNIVERSITY ON THE EXTRAORDINARY ACCOMPLISHMENTS OF THE 1991 FOOTBALL SEASON.

Also:

HJR 25. COMMENDING HOUSTON MARKHAM, JR., ALABAMA STATE UNIVERSITY HEAD COACH AND SWAC FOOTBALL COACH OF THE YEAR.

Also:

HJR 26. DESIGNATING FEBRUARY 29, 1992, AS "ALA-

BAMA TRIO DAY."

GREG PAPPAS,
Clerk.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolutions, the titles of which are set out in the foregoing Message from the House.

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Joint Resolution, your signature thereto is requested.

HJR 34. COMMENDING JOHN DWIGHT BONHAM ON HIS RETIREMENT.

GREG PAPPAS,
Clerk.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolution, the title of which is set out in the foregoing Message from the House.

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Joint Resolutions, your signature thereto is requested.

HJR 29. COMMENDING ANGIE E. ELROD FOR OUTSTANDING ACHIEVEMENT.

Also:

HJR 32. MOURNING THE DEATH OF SPURGEON L. MORGAN OF TALLASSEE, ALABAMA.

Also:

HJR 33. COMMENDING HAMMERMILL PAPER COMPANY ON ITS 25TH ANNIVERSARY.

Also:

HJR 35. COMMENDING MARY GIRDNER FOR DISTINGUISHED SERVICE TO THE ALABAMA LEGISLATURE, THE STATE OF ALABAMA AND HER COMMUNITY.

Also:

HJR 36. DESIGNATING "ALABAMA TRIO DAY" IN THE STATE OF ALABAMA.

Also:

HJR 38. NAMING THE "COOSA RIVER PARKWAY" IN ELMORE COUNTY.

Also:

HJR 39. EXTENDING CONGRATULATIONS TO THE HONORABLE AND MRS. HUGH HOLLADAY OF PELL CITY, ALABAMA, ON THE BIRTH OF A DAUGHTER, KATHRYN HASTINGS HOLLADAY.

GREG PAPPAS,
Clerk.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolutions, the titles of which are set out in the foregoing Message from the House.

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Bill,

your signature thereto is requested.

H. 11. Relating to the City of Centre in Cherokee County, Alabama; altering and rearranging the boundary lines and corporate limits of the City of Centre by adding certain parcels of land; providing for an advisory referendum approval by a majority of the qualified electors residing within the territory proposed to be brought within the city boundaries; and providing for an effective date.

GREG PAPPAS,
Clerk.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Bill, the title of which is set out in the foregoing Message from the House.

RECESS

At 11:40 A.M., on motion of Senator Corbett, the Senate took a recess subject to the call of the Chair.

At 4:10 P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Joint Resolution with the original Senate Joint Resolution, and finds same correctly enrolled, to-wit:

**SJR 13. COMMENDING JOHN AND SUZANNE PEARSON
OF BENEVOLA, ALABAMA.**

JIM PREUITT,
Chairperson.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Senate Joint Resolution, the title of which is set out in the foregoing Message from the House.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Bills with the original Senate Bills, and finds same correctly enrolled, to-wit:

S. 8. Relating to supernumerary district attorneys of the fourteenth (14th) judicial circuit; to provide a salary supplement equal to the salary supplement paid to supernumerary district attorneys of the tenth (10th) judicial circuit; and to specifically repeal Act No. 91-644, S. 695, of the 1991 Regular Session.

Also:

S. 9. Relating to Jefferson County; to create the "Metropolitan Rapid Rail Study Commission" for the county; to provide for the powers, duties, functions, finances, and membership of the commission.

Also:

S. 11. Relating to the City of Linden in Marengo County, to establish an investment trust fund to receive certain proceeds derived from a sale/purchase agreement between the City of Linden, the utilities board of the City of Linden and Alabama Gas Corporation, and from other lawful sources; to provide for legal investments for said fund; and to provide procedures for the expenditure of interest and principal from said fund.

Also:

S. 13. Relating to Jefferson County; amending Sections 4 and 5 of Act No. 765, H. 675, 1969 Regular Session (Acts 1969, p. 1358) creating a public bureau for the purpose of attracting conventions and visitors to every county having a population of 500,000 or more, to permit any county with area within the metropolitan area of the largest

city in the county within the population span to come under this act; and to provide further for the board of directors of the bureau.

**JIM PREUITT,
Chairperson.**

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing Bills, the titles of which are set out in the foregoing Message from the House.

ADJOURNMENT

At 4:15 P.M., on motion of Senator deGraffenried, and pending further consideration of the Bill, HB 1, the Senate adjourned until Sunday, February 2, 1992, at 2 o'clock P.M.

SEVENTH LEGISLATIVE DAY

SUNDAY, FEBRUARY 2, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by Senator Jack Floyd, Tenth Senatorial District.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Carey Jones, Alabama State University, Montgomery, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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REPORT OF COMMITTEE ON RULES ON REVISION OF THE JOURNAL

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Sixth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator deGraffenried, leave of absence was granted Senator Figures for today.

RECESS

At 3:10 P.M., Senator Corbett moved that the Senate take a recess until 7 o'clock P.M., which motion was adopted.

Yeas 17 Nays 13

Yeas:

Senators:

Barron, Bedsole, Bennett, Campbell, Corbett, Denton, Floyd, Foshee, Ghee, Hilliard, Horn, Langford, Lindsey, Mitchell, Parsons, Smith (J), and Wilson -17

Nays:

Senators:

Bailey, Bolling, Dial, Dixon, Ellis, Hale, Lipscomb, Little, Owens, Preuitt, Smith (B), Waggoner, and Windom -13

At 7 o'clock P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 14. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bill shall be the paramount and continuing order of business taking precedence over

**FIRST EXTRAORDINARY SESSION
7th Day**

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all other business until disposed of:

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H. 1

Workers' compensation, substantially revised, admin. law judges estab., ct. procedure alt., medical charges capped, numerous secs. of Title 25 am'd. and repealed

On motion of Senator Dixon, the Resolution was adopted by the Senate.

Yeas 27 Nays 4

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), Smith (J), Waggoner, and Windom

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Nays:

Senators:

Corbett, Hilliard, Langford, and Lindsey

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**SPECIAL ORDER
BILLS ON THIRD READING**

The Senate proceeded to consideration of the special, paramount, and continuing order of business for today, which was the Bill:

H. 1. To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 2, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation specialist program, mandatory benefit review conferences, and adjudication of claims by administrative law judges within the Division of Workers' Compensation of the Department of Industrial Relations; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, to repeal Sections 25-5-6, 25-5-12, 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, 25-5-88, 25-5-89, 25-5-91, 25-5-92, 25-5-93, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975; to limit payment of health providers to not more than the prevailing rates of reimbursement for services provided, as specified; to specifically limit claims for mental disorders or injuries to disorders or injuries produced or proximately caused by some physical injury to the body; to provide that gradual deterioration or cumulative physical stress disorders shall be deemed compensable only upon a finding of clear and convincing evidence and to provide further for the statute of limitations for injuries due to cumula-

tive physical stress; to make general contractors liable for workers' compensation benefits for employees of uninsured subcontractors; to specify the benefits for volunteer fire fighters or rescue squad members; to abolish the second injury trust fund; to extend from one to two years the statute of limitations for compensation for occupational diseases; to establish a workplace safety program for employers; to create a Medical Services Board in the Department of Industrial Relations which will provide for a maximum fee schedule; and to provide for civil immunity for members and employees of the board and to provide for certain implementation dates for various sections of the act.

as amended, and pending Lindsey amendment, which said amendment is set out in the Journal of the Senate for the Fifth Legislative Day.

On motion of Senator Hale, said amendment was laid on the table.

Senator Corbett offered the following amendment to the Bill, HB 1, as amended, to-wit:

AMENDMENT TO HB 1, AS AMENDED

On page 6, on line 20, after the period, insert the following language:

Average weekly earnings shall not include fringe benefits if and only if the employer continues the benefits during the period of time for which compensation is paid. 'Fringe benefits' are those benefits that the employer regularly furnishes an employee as a part of his or her compensation for the performance of the employee's duties, but for items furnished by the employer, in part for the purpose of assisting the employee in the performance of his or her duties, and in part for personal use.

Senator Corbett then offered the following substitute amendment for the Corbett amendment to the Bill, HB 1, as amended, to-wit:

SUBSTITUTE AMENDMENT FOR CORBETT AMENDMENT TO HB 1, AS AMENDED

On page 6, on line 20, after the period, insert the following language:

Average weekly earnings shall not include fringe benefits if and only if the employer continues the benefits during the period of time for which compensation is paid. 'Fringe benefits' are those benefits that the

employer regularly furnishes an employee as a part of his or her compensation for the performance of the employee's duties, but for items furnished by the employer, in part for the purpose of assisting the employee in the performance of his or her duties, and in part for personal use, only the value of the part furnished or approved for personal as opposed to business use is to be considered a fringe benefit.

ADJOURNMENT

At 11:59 P.M., on motion of Senator Corbett, and pending further consideration of the Bill, HB 1, the Senate adjourned until Monday, February 3, 1992, at 10 o'clock A.M.

EIGHTH LEGISLATIVE DAY
MONDAY, FEBRUARY 3, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by Senator Bobby Denton, First Senatorial District.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Amy Dixon, Birmingham Southern University, Birmingham, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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**REPORT OF COMMITTEE
ON RULES ON
REVISION OF THE JOURNAL**

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Seventh Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

**SPECIAL ORDER
BILLS ON THIRD READING**

Pursuant to the provisions of SR 14, set out in the Journal of the Senate for the Seventh Legislative Day, the Senate proceeded to consideration of the special, paramount, and continuing order of business for today, which was the Bill:

H. 1. To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 2, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation specialist program, mandatory benefit review conferences, and adjudication of claims by administrative law judges within the Division of Workers' Compensation of the Department of Industrial Relations; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, to repeal Sections 25-5-6, 25-5-12, 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, 25-5-88, 25-5-89, 25-5-91, 25-5-92, 25-5-93, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975; to limit payment of health providers to not more than the prevailing rates of reimbursement for services provided, as specified; to specifically limit claims for mental disorders or injuries to disorders or injuries produced or proximately caused by some physical injury to the body; to provide that gradual deterioration or cumulative physical stress disorders shall be deemed compensable only upon a finding of clear and convincing evidence and to provide further for the statute of limitations for injuries due to cumulative physical stress; to make general contractors liable for workers' compensation benefits for employees of uninsured subcontractors; to specify the benefits for volunteer fire fighters or rescue squad members; to abolish the second injury trust fund; to extend from one to two years the statute of limitations for compensation for occupational diseases; to establish a workplace safety program for employers; to create a Medical Services Board in the Department of Industrial Relations which will provide for a maximum fee schedule; and to provide for civil immunity for members and employees of the board and to provide for certain

implementation dates for various sections of the act.

as amended, and pending Corbett substitute amendment for the Corbett amendment, which said amendments are set out in the Journal of the Senate for the Seventh Legislative Day.

UNANIMOUS CONSENT GRANTED

Senator Sanders requested and received unanimous consent to receive the Message from the House relative to the Bill, SB 12.

MESSAGE FROM THE HOUSE

Mr. President:

The House has passed the following Senate Bill and returns same herewith to the Senate:

S. 12. To provide that county commissions which are currently elected from single-member districts may alter the boundaries of their respective districts.

GREG PAPPAS,
Clerk.

FURTHER CONSIDERATION OF HB 1

The Senate proceeded to further consideration of the Bill, HB 1, as amended. The question was on the Corbett substitute amendment for the Corbett amendment.

UNANIMOUS CONSENT GRANTED

Senator Sanders requested and received unanimous consent to receive the Report from the Committee on Rules relative to the Bill, SB 12.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Bill with the original Senate Bill, and finds same correctly enrolled, to-wit:

S. 12. To provide that county commissions which are current-

ly elected from single-member districts may alter the boundaries of their respective districts.

JIM PREUITT,
Chairperson.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Bill, the title of which is set out in the foregoing report from the Committee on Rules.

FURTHER CONSIDERATION OF HB 1

The Senate proceeded to further consideration of the Bill, HB 1, as amended. The question was on the Corbett substitute amendment for the Corbett amendment.

RESOLUTION

Senators Windom and Foshee requested and received unanimous consent in order to offer the following Senate Joint Resolution, to-wit:

SJR 15. DIRECTING THE COMMISSIONER OF INSURANCE TO RESCIND THE WORKMEN'S COMPENSATION INSURANCE RATE INCREASE.

WHEREAS, rate increases for carriers of workmen's compensation insurance were approved on April 1, 1991, and again on November 1, 1991; and

WHEREAS, workmen's compensation insurance rates have increased by an alarming 41 percent since 1988 alone; and

WHEREAS, the crisis in workmen's compensation insurance has clearly hindered the ability of the state to retain existing business and industry as well as to attract new business and industry; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we direct the Commissioner of Insurance to rescind the insurance premium rates approved November 1, 1991, for workmen's compensation carriers and to rein-

state the rates as last approved prior to November 1, 1991.

RESOLVED FURTHER, That a copy of this resolution be sent to the Commissioner of Insurance.

On motion of Senator Foshee, the Rules were suspended and the Resolution was adopted by the Senate.

FURTHER CONSIDERATION OF HB 1

The Senate proceeded to further consideration of the Bill, HB 1, as amended. The question was on the Corbett substitute amendment for the Corbett amendment.

On motion of Senator Corbett said substitute amendment was laid on the table.

On motion of Senator Corbett said amendment was laid on the table.

Senator deGraffenried offered the following substitute for the Bill, HB 1, as amended, to-wit:

SUBSTITUTE FOR HB 1, AS AMENDED

A BILL TO BE ENTITLED AN ACT

To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation specialist program and mandatory benefit review conferences, and amend section 25-5-81, Code of Alabama regarding the handling of workers compensation actions; to establish the Workers' Compensation Administrative Trust Fund and to provide funding therefore; to repeal Sections 25-5-16, 25-5-70 to 25-5-75, inclusive, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975; to limit payment of health providers to not more than the prevailing rates of reimbursement for services provided, as specified; to specifically limit claims for mental disorders or injuries to disorders or injuries produced or proximately caused by some physical injury to the body; to provide that gradual deterioration or cumulative physical stress disorders shall be deemed compensable only upon a finding of clear and convincing evidence and to provide further for the statute of limitations for injuries due to cumulative physical stress; to make general

contractors liable for workers' compensation benefits for employees of uninsured subcontractors; to specify the benefits for volunteer fire fighters or rescue squad members; to abolish the second injury trust fund; to extend from one to two years the statute of limitations for compensation for occupational diseases; to establish a workplace safety program for employers; to create a Medical Services Board in the Department of Industrial Relations which will provide for a maximum fee schedule; and to provide for civil immunity for members and employees of the board and to provide for certain implementation dates for various sections of the act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. It is the intent of the Legislature that the workers' compensation division of the Department of Industrial Relations shall administer the Alabama workers' compensation law in order to provide a workers' benefit system to insure the quick and efficient payment of compensation and medical benefits to injured and disabled workers at a reasonable cost to the employers who are subject to the Alabama Workers' Compensation Law. It is the specific intent of the Legislature that workers' compensation benefit claim cases be decided on their merits. The Alabama Workers' Compensation Act is remedial in nature and should be liberally construed to effectuate the intended beneficial purposes. However, even a liberality of construction does not abrogate the measure of proof or sufficiency of evidence.

It is also the intent of the Legislature in adopting this workers' compensation scheme to address difficulties in the current scheme that are producing a debilitating and adverse effect on the state's ability to retain existing industry and attract new industry. The Legislature finds that the current Workmen's Compensation Act of Alabama and other means of compensation or remedy for injury in the workplace has unduly increased cost to employers in the state, driven away jobs, and produced no concomitant benefit. There is a total absence of any reliable evidence that the current act has resulted in fewer injuries on the job, and a considerable body of evidence that any added benefit to the worker is significantly offset by the resulting reduction in job opportunities.

The Legislature has reviewed substantial evidence related to various types of cumulative physical stress disorders, cumulative trauma disorders and certain "natural aging" disorders, including carpal tunnel syndrome, repetitive motion syndrome, and even back and neck infirmities that result from gradual deterioration or the natural process of aging. The Legislature has concluded that it is extremely difficult for

the adjudicator of fact to determine whether these disorders are related to work or whether they result from some congenital defect, aging processes, or simply the routine activities of daily living.

These claims also account for a substantial percentage of the workers' compensation claims in this state and are one of the contributing causes of the current workers' compensation crisis facing this state.

It is the finding and expressed intent of the Legislature that the existence of a fair and affordable workers' compensation system within the State of Alabama materially contributes to the economic growth and prosperity of the state and all its citizens. It is the further finding of the Legislature that the provision of quality medical services to employees injured in the workplace at a reasonable and fair cost to employers is an important part of a workers' compensation system. The establishment of a Workers' Compensation Medical Services Board as constituted in this act is considered by the Legislature to be the most appropriate mechanism for insuring that high quality medical services are provided in a cost-effective manner to employees injured in the workplace.

Section 2. Section 25-5-1, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 1.

"GENERAL PROVISIONS.

"§25-5-1.

"Throughout this chapter, the following words and phrases as used therein shall be considered to have the following meanings, respectively, unless the context shall clearly indicate a different meaning in the connection used:

"(1) COMPENSATION. ~~Such term indicates the~~ The money ~~benefits to be paid on account of injury or death, as provided in Articles 3 and 4. Strictly speaking, the benefit~~ The recovery which an employee may receive by action at law under article Article 2 of this chapter is damages, termed 'recovery of civil damages,' and this is indicated as provided for in section Sections 25-5-31 and 25-5-34. To avoid confusion, the word "compensation" has been used in this chapter, but it should be understood that under article 2 the compensation by way of damages is determined by a civil action. Such term 'Compensation' does not include medical and surgical treatment and attention, medicine,

medical and surgical supplies, and crutches and apparatus furnished an employee on account of an injury.

"(2) CHILD or CHILDREN. ~~Such~~ The terms include posthumous children and all other children entitled by law to inherit as children of the deceased; stepchildren who were members of the family of the deceased, at the time of the accident, and were dependent upon him or her for support; a grandchild of the deceased employee, whose father is dead or is an invalid, and who was supported by and a member of the family of ~~such~~ the deceased grandparent at the time of the accident.

"(3) DEPENDENT CHILD or ORPHAN. An unmarried child under the age of 18 years or one over that age who is physically or mentally incapacitated from earning.

"(4) EMPLOYER. Every person ~~not excluded by section 25-5-50~~ who employs another to perform a service for hire and pays wages directly to ~~such the~~ the person, or who provides workers' compensation coverage for another either by payment of insurance premiums or by provisions of self-insured coverage. ~~Such~~ The term shall include a service company for a self-insurer or any person, corporation, copartnership, or association, or group thereof, and shall, if the employer is insured, include his or her insurer, ~~such the~~ the insurer being entitled to the employer's rights, immunities, and remedies under this chapter, as far as applicable, ~~and shall not include one who regularly employs a number less than three in any business; provided, however, that the~~. The inclusion of an employer's insurer within ~~such the~~ the term shall not provide ~~such the~~ the insurer with immunity from liability to an injured employee, or his or her dependents dependent in the case of his death to whom the insurer would otherwise be subject to liability under the provision of section Section 25-5-11. Notwithstanding ~~any section of articles 2 and 3 the~~ provisions of this chapter, in no event shall a common carrier by motor vehicle operating pursuant to a certificate of public convenience and necessity be deemed the 'employer' of a leased-operator or owner-operator of a motor vehicle or vehicles under contract to ~~such the~~ a common carrier.

~~"(5) PHYSICIAN. Such term shall include 'surgeon,' and, in either case, shall mean one authorized by law to practice his profession within one of the United States and in good standing in his profession at the time.~~

~~"(6) (5) EMPLOYEE, WORKER, WORKMEN and WORKMAN.~~ EMPLOYEE or WORKER. ~~Such~~ The terms are used

interchangeably, and have the same meaning throughout this chapter, and shall be construed to mean the same. ~~Such~~ The terms include the plural and all ages and both sexes. ~~Such~~ The terms include every person ~~not excluded by section 25-5-50,~~ in the service of another under any contract of hire, express or implied, oral or written, including aliens and also including minors who are legally permitted to work under the laws of this state, and also including all employees of Tannehill furnace and foundry commission. Any reference in this chapter to a 'workman' 'worker' or 'employee' shall, ~~where if the workman~~ worker or employee is dead, include his or her ~~dependents~~ dependent, as defined in this chapter, if the context so requires.

"~~(7)~~ (6) WAGES or WEEKLY WAGES. ~~Such~~ The terms shall in all cases, ~~unless the context clearly indicates a different meaning,~~ be construed to mean 'average weekly earnings' based on those earnings subject to federal income taxation and reportable on the Federal W-2 tax form. Average weekly earnings shall not include fringe benefits if and only if the employer continues the benefits during the period of time for which compensation is paid. 'Fringe benefits' shall include only the employer's portion of health, life, and disability insurance premiums. 'Fringe benefits' are those benefits that the employer regularly furnishes an employee as a part of his or her compensation for the performance of the employee's duties, but for items furnished by the employer, in part for the purpose of assisting the employee in the performance of his or her duties, and in part for personal use, only the value of the part furnished or approved for personal as opposed to business use is to be considered a fringe benefit. ~~Every person, not excluded by section 25-5-50, in the service of another under any contract of hire, express or implied, oral or written, includes aliens and also includes minors who are legally permitted to work under the laws of the state.~~

"~~(8)~~ (7) ACCIDENT. ~~Such~~ The term, as used in the phrases 'personal injuries due to accident' or 'injuries or death caused by accident' shall, ~~unless a different meaning is clearly indicated by the context,~~ be construed to mean an unexpected or unforeseen event, happening suddenly and violently, with or without human fault, and producing at the time injury to the physical structure of the body or damage to an artificial member of the body by accidental means.

"~~(9)~~ INJURIES BY AN ACCIDENT ARISING OUT OF AND IN THE COURSE OF HIS EMPLOYMENT. ~~Without otherwise affecting either the meaning or interpretation of such clause, such clause does not cover workmen except while engaged in or about the premises where their services are being performed or where their service requires their presence as a part of such service at the time of the accident and during~~

~~the hours of service as such workmen, and shall not include any injury caused by the act of a third person or fellow employee intended to injure the employee because of reasons personal to him and not directed against him as an employee or because of his employment, and it shall not include a disease unless the disease results proximately from the accident.~~

"(8) INJURY. 'Injury and personal injury' shall mean only injury by accident arising out of and in the course of the employment, and shall not include a disease in any form, except for an occupational disease or where it results naturally and unavoidably from the accident. Injury shall include breakage or damage to eyeglasses, hearing aids, dentures, or other prosthetic devices which function as part of the body, when injury to them is incidental to an on-the-job injury to the body. Injury does not include an injury caused by the act of a third person or fellow employee intended to injure the employee because of reasons personal to him or her and not directed against him or her as an employee or because of his or her employment. Injury does not include a mental disorder or mental injury that has neither been produced nor been proximately caused by some physical injury to the body.

"(9) ARISING OUT OF THE EMPLOYMENT. For an injury to 'arise out of the employment,' the employment must have subjected the injured individual to a risk of that injury which is materially in excess of the risk of that injury to which persons not so employed are subjected.

"(10) IN THE COURSE OF THE EMPLOYMENT. An accident occurs in the course of the employment when it occurs while the employee is engaged in the performance of his or her duties, or activities incidental thereto, either on the business premises or at a place where the employee reasonably may be engaged in his or her duties.

"(10) (11) SINGULAR AND PLURAL. Wherever the singular is used, the plural shall be included.

"(11) (12) GENDER. Where the masculine gender is used, the feminine and neuter shall be included.

"(12) (13) LOSS OF HAND or FOOT. ~~Amputations~~ Amputation between the elbow and wrist shall be considered as the equivalent to the loss of a hand, and the amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot.

"(14) PREVAILING. As used herein for the purposes of this

chapter, the term 'prevailing' for physicians shall be the rate set by the Workers' Compensation Medical Services Board, for hospitals shall be as established in Section 25-5-77, and for all other providers shall mean most commonly occurring, excluding federal and state medical reimbursements, and shall not be construed as an average.

"(15) PROVIDERS. As used herein for the purposes of this chapter, 'providers' includes physicians and also includes a hospital, medical clinic, pharmacist, pharmaceutical supply company, rehabilitation service, or other person or entity providing treatment, service, or equipment or person or entity providing facilities at which the employee receives treatment.

"(16) MEDICAL. As used herein for the purposes of this chapter, 'medical' includes all services, treatment, or equipment provided by all providers.

"(17) PARTICIPATING AND NONPARTICIPATING HOSPITALS. As used herein for the purposes of this chapter, the term 'participating hospital' shall mean those hospitals that have a negotiated rate of reimbursement or payment with the Department of Industrial Relations. 'Nonparticipating hospitals' shall mean those hospitals that have not negotiated a rate of reimbursement or payment with the Department of Industrial Relations.

"(18) HOSPITAL. As used herein for the purposes of this chapter, the term 'hospital' shall include a hospital, ambulatory surgical center, and outpatient rehabilitation centers licensed by the state of Alabama.

"(13) (19) THE COURT. ~~Such term shall mean the~~ The circuit court ~~which~~ that would have jurisdiction in an ordinary civil action involving a claim for the injuries or death in question, and 'the judge' ~~shall mean~~ means a judge of ~~said~~ that court."

Section 3. Section 25-5-2, Code of Alabama 1975, is amended to read as follows:

"§25-5-2.

"The Director of the Department of Industrial Relations of the state of Alabama shall gather statistics on accidents and their causes and shall generally be responsible for the efficient administration of this chapter and, to. To this end, he or she shall ~~have full power to make or cause to be made~~ the necessary investigations and examinations in con-

nection with the settlement of all ~~workmen's~~ workers' compensation claims. As used in this chapter, the word 'director' shall ~~be construed to mean the Director of the 'Department of Industrial Relations' or the director thereof unless a contrary meaning plainly appears.~~

Section 4. Section 25-5-3, Code of Alabama 1975, is amended to read as follows:

"§25-5-3.

~~"The director of the department of industrial relations shall prepare and cause to be printed, at the expense of the state, and to be paid for as other supplies are paid for, and upon request furnish free of charge sample copies to any employer or employee such the blank forms and literature as he or she shall deem requisite to facilitate or promote the efficient administration of articles~~ Articles 2 and 3, ~~2, 3, and 4 of this chapter, other than the papers relating to court proceedings. The director shall adopt and cause a standardized claim reimbursement form to be used by providers. The director shall also assist providers in developing a system for electronic reporting, billing, and payment in workers' compensation cases. Standardized claim reimbursement forms for physicians licensed to practice medicine shall be approved by the director and the Workers' Compensation Medical Services Board.~~

Section 5. Section 25-5-4, Code of Alabama 1975, is amended to read as follows:

"§25-5-4.

~~"Every~~ An employer shall keep a record of all injuries, fatal or otherwise, received by his or her employees arising out of and in the course of their employment and for which compensation is claimed or paid, ~~received by his employees in the course of their employment.~~ Within 15 days after the occurrence of ~~such the~~ injuries and knowledge thereof by the employer, a report of the same shall be made to the department of industrial relations on forms approved by ~~said the~~ department. At the discretion of the director, reports received under ~~the provisions of~~ this chapter may be destroyed after 12 years."

Section 6. Section 25-5-8, Code of Alabama 1975, is amended to read as follows:

"§25-5-8.

"(a) Option to insure risks. ~~Every~~ An employer who ~~accepts~~

subject to ~~the provisions of~~ this chapter may secure the payment of compensation under this chapter by insuring and keeping insured his or her liability in some insurance corporation, association, organization, ~~or insurance association, or corporation, or association~~ formed of employers and ~~workmen~~ workers or formed by a group of employers to insure the risks under this chapter, operating by mutual assessment or other plans or otherwise; ~~provided, that such.~~ Notwithstanding the foregoing, the insurance association, organization, or corporation shall have first had its contract and plan of business approved in writing by the ~~director~~ Commissioner of the Department of Insurance of Alabama and have been authorized by the ~~said~~ Department of Insurance to transact the business of ~~workmen's~~ workers' compensation insurance in this state and under ~~such~~ the ~~charter or~~ plan.

"(b) Option to operate as self-insurer. ~~Every~~ An employer subject to ~~the provisions of~~ this chapter who elects not to insure his or her liability thereunder shall furnish satisfactory proof to the director of ~~industrial relations~~ of his or her financial ability to pay directly ~~such~~ compensation in the amount and manner and when due as provided by this chapter, ~~whereupon~~ Whereupon, the director shall authorize ~~said~~ the employer to operate as a self-insurer. ~~; provided, however, that the director may require such employer to post a surety bond or to deposit in a depository designated by the director money or securities of a kind and in an amount reasonably determined by the director and subject to such reasonable conditions as the director may prescribe, which shall include authorization to the director in case of default to sell any such securities to pay benefits due or to file a civil action upon such bond to procure payment of benefits under this chapter.~~ The director may also prescribe other reasonable rules and regulations for the purpose of protecting the injured employee or the employee's dependents and set reasonable fees to accompany self-insurance applications.

"(c) Evidence of compliance. ~~Every~~ An employer subject to ~~the provisions of~~ this chapter shall file with the director, on a form prescribed by the director, annually or as often as the director in his or her discretion deems necessary, evidence of compliance with the requirements of this section. In cases where insurance is taken with a carrier duly authorized to write such insurance in this state, notice of insurance coverage filed by the carrier shall be sufficient evidence of compliance by the insured.

"(d) Certificate of compliance.

"(1) ISSUANCE, REVOCATION, ETC. ~~Whenever an employer has complied~~ Upon the employer's complying with the provisions of

subsection (b) of this section relating to self-insurance, the director shall issue to ~~such the~~ employer a certificate, which shall remain in force for a period fixed by the director. ~~The director may, upon~~ Upon 60 days notice and hearing to the employer, ~~the director may,~~ for financial reasons, for failure of the employer to faithfully discharge his or her obligations according to the agreements contained in his or her application for self-insurance, or for the violation of any reasonable rule or regulation prescribed by the director, revoke the self-insurance certificate, in which case the employer shall immediately insure his or her liability. Certificates of self-insurance issued prior to September 17, 1973, shall continue in force but shall become subject to revocation as provided in this subsection. At any time after ~~such the~~ revocation, the director may grant a new certificate to the employer upon ~~his~~ application by the employer.

"(2) APPEALS. An appeal may be taken from any ruling of the director under subsection (b) of this section ~~and or under~~ this subsection to the circuit court of any county wherein the employer does business. Trial in ~~such the~~ court shall be de novo and without a jury ~~unless the employer demands a jury trial at the time of taking such appeal; provided, however, that the.~~ The taking of ~~any such an~~ appeal shall not stay the ruling or order appealed from unless good and sufficient bond approved by the judge of the court to which the appeal is taken shall be filed with the clerk of ~~said the~~ court, conditioned on complying with such order as may be legally made effective and further conditioned upon payment by the employer of all final ~~judgments orders~~ for compensation that may be rendered against ~~him the employer~~ pending the disposition of ~~such the~~ appeal.

"(e) Penalties for failure to secure payment of compensation; injunctions. ~~Any An~~ employer required to secure the payment of compensation under this section who fails to secure compensation shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than ~~\$25.00~~ one hundred dollars (\$100) nor more than ~~\$1,000.00~~ one thousand dollars (\$1,000). In addition ~~thereto, any~~ an employer required to secure the payment of compensation under this section who fails to secure ~~such the~~ compensation shall be liable for two times the amount of compensation which would have otherwise been payable for injury or death to an employee. The director ~~is authorized to may~~ apply to ~~any a~~ court of competent jurisdiction for an injunction to restrain threatened or continued violation of any provisions relating to the requirements of insurance or self-insurance. The court may institute civil penalties against an employer in noncompliance with this act, in an amount not to exceed one hundred dollars (\$100) per day. Subsequent compliance with this act shall not be a defense.

"(f) Employer insurance policies.

"(1) REQUIRED AND PROHIBITED PROVISIONS. Insurance policies written pursuant to this section shall contain a clause to the effect that, as between the ~~workman~~ worker and the insurer, notice to and knowledge by the employer of the occurrence of the injury shall be deemed notice and knowledge on the part of the insurer; that jurisdiction of the employer for the purpose of this chapter shall be jurisdiction of the insurer; and, that the insurer will in all things be bound by and subject to the ~~awards, adjudgment~~ award or judgment rendered against ~~such~~ the employer upon the risk so insured. ~~Such~~ The policies shall provide that the ~~workman~~ worker shall have an equitable lien upon any amount ~~which~~ that shall become owing, on account of ~~such~~ the policy, to the employer from the insurer, and, in case of legal incapacity or inability of the employer to receive the ~~said~~ amount owing and pay it over to the ~~workman~~ worker or his or her ~~dependents~~ dependent, that the ~~said~~ insurer will pay the same direct to the ~~said~~ ~~workman~~ worker or ~~dependents~~ dependent, thereby discharging all obligations under the policy to the employer and all the obligations of the employer and the insurer to the ~~workman~~, worker, ~~but such~~ Such policies, ~~however~~, shall contain no obligations relieving the insurance company from payment of obligations ~~when~~ if the employer becomes insolvent or discharged in bankruptcy or otherwise during the period the policy is in force, if the compensation remains owing. The insurer must be one authorized by law to conduct ~~such~~ business in the state of Alabama, and all insurance companies writing such insurance may include in their policies, in addition to the requirements now provided by law, the additional requirements, terms, and conditions ~~in this section~~ provided in this section.

"(2) FILING OF AND APPROVAL OF PREMIUM AND RISK CLASSIFICATIONS. ~~Every~~ An insurance corporation, mutual corporation, reciprocal exchange, or association authorized to transact the business of ~~workmen's~~ workers' compensation insurance in this state and which insures employers against liability for compensation under ~~the provisions of~~ this chapter shall file with the Department of Insurance its classification of risks and premiums relating thereto and any subsequent proposed classification of risks and premiums, together with the basic rates and merit-rating schedules, if a system of schedule rating or merit rating is used by ~~such~~ the insurance corporation, exchange, or association, none of which shall take effect until the ~~director~~ Commissioner of the Department of Insurance shall have approved the same as reasonable, adequate, and not excessive. All filings with the Department of Insurance containing aggregate industry data of classifications of risks and premiums, rates, and merit-rating schedules pertaining to workers'

compensation insurance shall be public records, notwithstanding any other provisions of Alabama law. Prior to approval of any bureau loss cost or rate filing related to workers' compensation insurance, the Commissioner of the Department of Insurance shall at the request of an interested party convene a public hearing with reasonable public notice for the purpose of considering public testimony and other evidence relevant to the filing pending. Within 10 days after such approval, of said rates, schedules and system of schedule or merit rating by said director the Commissioner of the Department of Insurance, he shall make or cause to be made a sufficient number of printed or typewritten copies of same for such that purpose, and shall mail at least one copy of each of the same to every insurance carrier writing workmen's workers' compensation business in the state of Alabama, at its the carrier's last address or at the last address of its designated agent to receive the same left in writing by such carrier with said department. And every such The insurance carrier shall (or if such insurance carrier it is a member of or associated with a rating or inspection bureau, either or both of them, or a concern or aggregation of like character, it shall cause such the rating and inspection bureau, either or both, or concern or aggregation of like character with which it is affiliated to do so) file with the Department of Insurance a full and complete statement of the actuarial and underwriting experience data and the like in its possession, from which and upon which said the rates, schedules, and systems so filed were ascertained, calculated, and constructed, and, within six months after the expiration of each succeeding six months, shall file a like statement of all actuarial and underwriting data and the like, pertaining to such the rates, schedules, and system accumulated or acquired by it during the preceding six months. Upon failure to file said the statement within the time specified above, said the rates, schedules, or and systems may be presumed by the director Commissioner of the Department of Insurance, without more, to be excessive, unreasonable, inadequate to provide the necessary reserves, or discriminatory, as the case may be. The said-director Commissioner of the Department of Insurance may withdraw his or her approval of any premium rate or schedule made by any such an insurance corporation, association, mutual corporation, or reciprocal exchange, if, in his or her judgment, such the premium rate or schedule is excessive, or unreasonable, or discriminatory, or is inadequate to provide the necessary reserves. The commissioner shall withdraw approval of any premium rate or schedule shown by a motor common carrier employer to be conditioned on the motor common carrier accepting the coverage of owner-operators or lease-operators as a condition to providing coverage for the motor common carrier employer's employees.

"Nothing contained in this chapter or in any other law of this state

shall affect the right of ~~any~~ an insurance corporation or ~~any~~ a mutual or reciprocal insurance corporation or association to issue participating policies or contracts or to pay savings, refunds, or dividends upon such the policies or contracts.

"(3) PAYMENT OF INSURANCE COSTS BY EMPLOYEES. No agreement by an employee to pay to an employer any portion of the cost of insuring his or her risk under this chapter shall be valid unless such the agreement between the employer and employee, the plan of which is part of a contract, is approved in writing by the director commissioner of the department of insurance of the state of Alabama. But the employer and the workman worker may agree to carry the risks covered by this chapter in conjunction with other and greater risks and to provide other and greater benefits, such as additional compensation, accident, sickness, or old age insurance, or benefits, and the fact that such the plan involves a contribution by the workman worker shall not prevent its validity if such the plan has been approved in writing by the director commissioner of the department of insurance of Alabama. Any An employer who ~~shall make~~ makes any charge or deduction prohibited by this section ~~shall be~~ is guilty of a misdemeanor.

"(4) DIRECT ACTIONS AGAINST INSURERS. If the employer ~~shall insure to his employees~~ insures the payment of the compensation provided by this chapter and according to the full benefits thereof and with full coverage under this chapter in a corporation or association authorized to do business in ~~the state of~~ Alabama and approved by the director commissioner of the department of insurance of the state of Alabama, and if the employer ~~shall post~~ posts a notice or notices in a conspicuous place or in conspicuous places about his or her place of employment, stating that he or she is insured and by whom insured, and if the employer ~~shall further file~~ files a copy of such the notice with the Department of Insurance, then, and in such case, any civil actions brought by an injured employee or ~~his~~ the employee's dependents dependent shall be brought directly against the insurer, and the employer, or insured, shall be released from any further liability. ~~In case of insolvency or bankruptcy of said insurance company or in case~~ If the insurance company is insolvent or bankrupt, or if it cannot be reached by due diligence by process in this state, the employer shall not be released from liability under the provisions of this chapter. Should any recovery be had in excess of the amount of the insurance carried, the employer shall be liable for such the excess. The return of any execution upon any a judgment of any an employee against any such an insurance company, unsatisfied in whole or in part, shall be conclusive evidence of the insolvency of such the insurance company for the purposes of this chapter, and, in the event of adjudication of bankruptcy

~~or insolvency of any such insurance company if the insurance company is adjudged to be bankrupt or insolvent by any a court of competent jurisdiction, proceedings may be brought by the employee against the employer in the first instance or against such the employer and the insurance company jointly or severally or in any a pending proceeding against any the insurance company, and the employer may be joined at any time after such the adjudication.~~

"(g) Employer bill of rights-penalty.

"(1) Every insurance carrier and self-insurers, individual and group, shall, on written request of the insured employer, provide the employer with a list of claims made against the employer. The information provided to the employer shall include amounts paid for closed claims and, if requested, details regarding the treatment and condition of the injured or disabled worker. The employer shall also receive notice of any proposed settlement of any claim against the employer if the employer so requests in writing.

"(2) Failure to comply with subdivision (1) may subject the violator to a fine, upon hearing by a court, of not less than twenty-five dollars (\$25) or more than one hundred dollars (\$100)."

Section 7. Section 25-5-10, Code of Alabama 1975, is amended to read as follows:

"§25-5-10.

"(a) Any A person who creates or carries into operation any fraudulent scheme, artifice, or device to enable him to execute work without himself being responsible to the workman worker for the provisions of benefits provided by this chapter shall himself be included in the term 'employer' and shall be subject to all the liabilities of employers under this chapter. But this section shall not be construed to cover or mean an owner who lets a contract to a contractor in good faith, nor to a contractor who, in good faith, lets to a subcontractor a portion of his contract; but no person shall be deemed a contractor or subcontractor so as to make him liable to pay compensation within the meaning of this section who performs his work upon the employer's premises, with the employer's tools or appliances, and under the employer's directions, nor one who does what is commonly known as "piece work," or, in any way, where the system of employment used merely provides a method of fixing the workman's wages.

"(b) When compensation is claimed from or proceedings taken

against a person under subsection (a) of this section, the compensation shall be calculated with reference to the wage the ~~workman~~ worker was receiving from the person by whom he or she was immediately employed at the time of the injury.

"(c) The employer shall not be liable or required to pay compensation for injuries due to the acts ~~of~~ or omissions of third persons not at the time in the service of the employer nor engaged in the work in which the injury occurs, except as provided in Section 25-5-11."

Section 8. Sections 25-5-11 and 25-5-11.1, Code of Alabama 1975, are amended to read as follows:

"§25-5-11.

"(a) ~~Where~~ If the injury or death for which compensation is payable under Articles 3 or 4 of this chapter was caused under circumstances also creating a legal liability for damages on the part of any party other than the employer, whether or not ~~such~~ the party is subject to ~~the provisions of~~ this chapter, the employee, or his or her dependents in case of his death, may proceed against the employer to recover compensation under this chapter or may agree with the employer upon the compensation payable under this chapter, and, at the same time, may bring an action against such the other party to recover damages for such the injury or death, and the amount of such the damages shall be ascertained and determined without regard to this chapter. ~~;- provided, however, if such~~ If a party, other than the employer, is a workers' compensation insurance carrier of the employer or any person, firm, association, trust, fund, or corporation responsible for servicing and payment of workers' compensation claims for the employer, or any officer, director, agent, ~~servant~~ or employee of such the carrier, person, firm, association, trust, fund, or corporation, or is a labor union, or any official or representative thereof, or is a governmental agency providing occupational safety and health services, or an employee of the agency, or is an officer, director, agent, servant or employee of the same employer, or his or her personal representative, the injured employee, or his or her dependents in the case of his death, may bring such an action against any workers' compensation insurance carrier of the employer or any person, firm, association, trust, fund, or corporation responsible for servicing and payment of workers' compensation claims for the employer, or such labor union, or the governmental agency, or such person, or his or her personal representative, only for willful conduct which results in or proximately causes the injury or death. If the injured employee, or in case of his death, his or her dependents, recover damages against such the other party, the amount of

~~such the damages so recovered and collected shall be credited upon the liability of the employer for compensation, and if such~~ If the damages ~~so recovered and collected should be~~ are in excess of the compensation payable under this chapter, there shall be no further liability on the employer to pay compensation on account of ~~such the~~ injury or death. To the extent of ~~any such the~~ recovery of damages against ~~such the~~ other, the employer shall be entitled to reimbursement for the amount of compensation theretofore paid on account of ~~such~~ injury or death. If the employee who recovers damages is receiving or entitled to receive compensation for permanent total disability, then the employer shall be entitled to reimbursement for the amount of ~~such~~ compensation theretofore paid, and the employer's obligation to pay further compensation for permanent total disability shall be suspended for the number of weeks which equals the quotient of the total damage recovery, ~~(less the amount of any reimbursement for compensation already paid),~~ divided by the amount of the weekly benefit for permanent total disability which the employee was receiving or to which the employee was entitled. For purposes of this act, the employer shall be entitled to subrogation for medical and vocational benefits expended on behalf of the employee pursuant to the common law of Alabama, or based upon equitable principles, or otherwise as determined on a case-by-case basis by the court.

"(b) If personal injury or death to any employee results from the willful conduct, as defined in subsection (c) herein, of any officer, director, agent, ~~servant~~ or employee of the same employer or any workers' compensation insurance carrier of the employer or any person, firm, association, trust, fund, or corporation responsible for servicing ~~and any~~ payment of workers' compensation claims for the employer, or any officer, director, agent, ~~servant~~ or employee of ~~such the~~ carrier, person, firm, association, trust, fund, or corporation, or of a labor union, or an official or representative thereof, the employee shall have a cause of action against ~~such the~~ person, workers' compensation carrier, or labor union.

"(c) As used herein, 'willful conduct' means any of the following:

"(1) A purpose or intent or design to injure another; and ~~where~~ if a person, with knowledge of the danger or peril to another consciously pursues a course of conduct with a design, intent, and purpose of inflicting injury, then he or she is guilty of 'willful conduct.'

"(2) The willful and intentional removal from a machine of a safety guard or safety device provided by the manufacturer of the ma-

chine with knowledge that injury or death would likely or probably result from ~~such~~ the removal; provided, however, ~~that~~ removal of ~~such~~ a guard or device shall not be willful conduct unless ~~such~~ the removal did, in fact, increase the danger of in the use of the machine and was not done for the purpose of repair of the machine or was not part of an improvement or modification of the machine which rendered the safety device unnecessary or ineffective; ~~or~~ and provided that the failure to replace a guard or safety device, the failure to repair a guard or safety device, or the failure to maintain a guard or safety device, shall not be deemed removal of a guard or safety device under this subsection, unless the evidence shows conclusively that the co-employee had actual knowledge of the condition and with that knowledge, willfully and intentionally failed to replace, repair, or maintain such guard or safety device.

"(3) The intoxication of another employee of the employer ~~when~~ if the conduct of that employee has wrongfully and proximately caused injury or death to the plaintiff or plaintiff's decedent, but no employee shall be guilty of willful conduct on account of the intoxication of ~~any other~~ another employee or ~~other~~ another person; ~~or~~.

"(4) Willful and intentional violation of a specific written safety rule of the employer after written notice to the violating employee by another employee who, within six months after the date of receipt of ~~such~~ the written notice, suffers injury resulting in death or permanent total disability as a proximate result of ~~said~~ the willful and intentional violation. Said The written notice to the violating employee must state with specificity all of the following:

"a. The identity of the violating employee; ~~and~~.

"b. The specific written safety rule being violated and the manner of the violation; ~~and~~.

"c. That the violating employee has repeatedly and continually violated the specific written safety rule referred to in b above with specific reference to previous times, dates, and circumstances; ~~and~~.

"d. That ~~such~~ the violation places the notifying employee at risk of great injury or death.

"A notice that does not contain all of the above elements will not be valid notice for purposes of this section. An employee shall not be liable for ~~such~~ the willful conduct if the injured employee himself or herself violated a safety rule, or otherwise contributed to his or her own injury. ~~and no~~ No employee shall be held liable under this ~~paragraph~~.

section for the violation of any safety rule by any other employee or for failing to prevent any violation by any other employee.

"(d) In the event the injured employee, or his or her dependents, in case of his death, ~~his dependents~~ do not file a civil action against ~~such the~~ other party to recover damages within the time allowed by law, the employer or the insurance carrier for the employer shall be allowed an additional period of six months within which to bring a civil action against ~~such the~~ other party for damages on account of ~~such the~~ injury or death. In the event the employer or the insurance carrier ~~shall have~~ has paid compensation to ~~such the~~ employee or his or her dependents dependent, or in the event a proceeding is pending against the employer to require the payment of ~~such the~~ compensation, ~~such the~~ civil action may be maintained either in the name of the injured employee or, in the name of his or her dependent in case of his death, ~~in the name of his dependents~~, or in the name of the employer or the insurance carrier. ~~and in~~ In the event the damages recovered in ~~such the~~ civil action are in excess of the compensation payable by the employer under this chapter and costs, attorney's fees, and reasonable expenses incurred by the employer in making ~~such the~~ collection, the excess of ~~such the~~ amount shall be held in trust for the injured employee or, in case of his death, for ~~his the~~ employee's dependents. ~~In the event If such the~~ injured employee has no ~~dependents~~ dependent, ~~his the~~ personal representative, in the event of his death, may bring a civil action against ~~such the~~ other party to recover damages without regard to this chapter.

"(e) In ~~any a~~ settlement made under this section with a third party by the employee or, in the case of his death, by his or her dependents, the employer shall be liable for that part of the attorney's fees incurred in the settlement with the third party, ~~either~~ with or without a civil action, in the same proportion that the amount of the reduction in the employer's liability to pay compensation bears to the total recovery had from ~~such the~~ third party.

"(f) For the purpose of this section, ~~any a~~ carrier, person, firm, association, trust, fund, or corporation ~~shall include any~~ includes a company or a governmental agency making a safety inspection on behalf of ~~any a~~ self-insured employer or its employees and ~~any an~~ officer, director, agent, ~~servant~~ or employee of ~~such the~~ company or a governmental agency.

"§25-5-11.1.

"(a) No employee shall be terminated by an employer solely because the employee has instituted ~~or maintained any a~~ a cause of action

against the employer to recover worker's compensation benefits under this chapter or solely because the employee has filed a written notice of violation of a safety rule pursuant to subdivision (c)(4) of Section 25-5-11.

"(b) An employee claiming a violation of subsection (a) shall have as his or her exclusive remedy a cause of action for backpay, fringe benefits, and other employment compensation lost by reason of the termination.

"(c) Any action brought pursuant to subsection (b) shall be heard in circuit court before a judge sitting without a jury."

Section 9. Section 25-5-16, Code of Alabama 1975, is repealed.

Section 10. Section 25-5-50, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 3.

"ELECTIVE COMPENSATION UNDER CONTRACT

"OF EMPLOYMENT.

"§25-5-50.

"This article and ~~article~~ Article 2 of this chapter shall not be construed or held to apply to ~~domestic servants, to farm laborers~~ an employer of a domestic employee; an employer of a farm laborer; whose employers have not filed an election to become subject to this chapter or to persons an employee of a person whose employment at the time of the injury is casual and not in the usual course of the trade, business, profession, or occupation of the employer; or to any an employer who regularly employs less than three employees in any one business, other than the business of constructing or assisting on-site in the construction of single-families, detached residential dwellings or to any a municipality having a population of less than 2,000 according to the most recent federal decennial census. Any An individual employer, as defined in section 25-5-1 hereof, any employer who regularly employs less than three employees in any one business; any farmer, a farm-labor employer; an employer of a domestic employee; or any a municipality having a population of less than 2,000 according to the most recent federal decennial census, may accept and become subject to the provisions of this article and article Article 2 of this chapter by filing

written notice thereof with the Department of Industrial Relations, a copy thereof to be posted at the place of business of ~~said the~~ employer; provided further, that ~~any an~~ employer who has so elected to accept the ~~provisions of this article and article~~ Article 2 4 of this chapter may at any time withdraw the acceptance by giving like notice of withdrawal.

"Notwithstanding the foregoing paragraph, ~~any an~~ officer of a corporation may elect annually to be exempt from coverage by filing written certification of ~~such the~~ election with the department of ~~industrial relations~~ and ~~his the~~ employer's insurance carrier.

"A. At the end of any calendar year, a corporate officer who has been exempted, himself by proper certification from coverage, may at the end of any calendar year revoke such the exemption and thereby accept coverage by filing written certification of his or her election to be covered with the department of industrial relations and his the employer's insurance carrier.

"The certification for exemption or reinstatement of coverage shall become effective on the first day of the calendar month following the filing of the certification of exemption or reinstatement of coverage with the department of ~~industrial relations~~.

~~"In the event that~~ If the corporate officer election occurs elects to be exempt from coverage, such the election shall not relieve the employer from continuing coverage for all other eligible employees who may have been covered prior to the election or who may subsequently be employed by the firm.

"This section shall provide for voluntary coverage of certified volunteer fire departments as described in Section 9-3-17 and legally organized rescue squads approved by the Alabama Forestry Commission that meet the minimum personnel and equipment standards as established by the Alabama Association of Rescue Squads, that are engaged in fighting a fire or performing other duties involving any emergency incident and while performing any official supervised duties of the organization, including maintaining equipment and attending official training classes, and while traveling to and from an emergency incident.

"In all cases where an injury that is compensable under the terms of the Alabama workers' compensation law is received by a volunteer fire fighter or rescue squad member, the wages for purposes of computing the average weekly wage shall be equal to 66 2/3 percent of what he or she is earning at his or her regular place of employment or 66 2/3 percent of the minimum wage, whichever is greater.

"In no event shall the regular employer of a volunteer fire fighter or rescue squad member be liable for a compensable injury under this section."

Section 11. Section 25-5-51, Code of Alabama 1975, is amended to read as follows:

"§25-5-51.

"~~When~~ If an employer is subject to this article, compensation, according to the schedules hereinafter contained, shall be paid by ~~every such~~ the employer, or those conducting the business during bankruptcy or insolvency, in every case of personal injury or death of his or her employee caused by an accident arising out of and in the course of his or her employment, without regard to any question of negligence; ~~except, that.~~ Notwithstanding the foregoing, no compensation shall be allowed for an injury or death caused by the willful misconduct of the employee, or by the employee's intention to bring about the injury or death of himself or herself or of another, or ~~due to his own intoxication or~~ his or her willful failure or willful refusal to use safety appliances provided by the employer or by an accident due to the injured employee being intoxicated from the use of alcohol or being impaired by illegal drugs.

"A positive drug test conducted and evaluated pursuant to standards adopted for drug testing by the U.S. Department of Transportation in 49 C.F.R. part 40 shall be a conclusive presumption of impairment resulting from the use of illegal drugs. No compensation shall be allowed if the employee refuses to submit to or cooperate with a blood or urine test as set forth above after the accident or occupational disease after being warned in writing by the employer that such refusal would forfeit the employee's right to recover benefits under this chapter.

"No compensation shall be allowed if at the time of or in the course of entering into employment or at the time of receiving notice of the removal of conditions from a conditional offer of employment the employee knowingly and falsely misrepresents in writing his or her physical or mental condition and said condition is aggravated or reinjured in an accident arising out of and in the course of his or her employment.

"At the time an employer makes an unconditional offer of employment or removes conditions previously placed on a conditional offer of employment, the employer shall provide the employee with the following written warning in bold type print, 'Misrepresentations as to preexisting

physical or mental conditions may void your workers' compensation benefits. If the employer defends on the ground that the injury arose in any or all of the last above-stated ways, the burden of proof shall be on the employer to establish ~~such~~ the defense."

Section 12. Section 25-5-52, Code of Alabama 1975, is amended to read as follows:

"§25-5-52.

~~"No~~ Except as provided in this chapter, no employee of any employer subject to this ~~article~~ chapter, nor the personal representative, surviving spouse, or next of kin of ~~any such~~ the employee shall have ~~any~~ a right to any other method, form, or amount of compensation or damages for ~~any~~ an injury or death occasioned by ~~any~~ an accident or occupational disease proximately resulting from and while engaged in the actual performance of the duties of his or her employment and from a cause originating in such employment or determination thereof ~~other than as provided in this article.~~"

Section 13. Section 25-5-53, Code of Alabama 1975, is amended to read as follows:

"§25-5-53.

"The rights and remedies ~~herein~~ granted in this chapter to an employee shall exclude all other rights and remedies of ~~said~~ the employee, his or her personal representative, parent, ~~dependents~~ dependent, or next of kin, at common law, by statute, or otherwise on account of ~~said~~ injury, loss of services, or death. Except as provided in this ~~article and article 2, as the case may be,~~ of this chapter, no employer ~~included within the terms of this chapter~~ shall be held civilly liable for ~~any~~ personal injury to or death of ~~any workman who is an employee of the employer and~~ the employer's employee, for purposes of this chapter, whose injury or death is due to an accident or to an occupational disease while engaged in the service or business of the employer, the cause of which accident or occupational disease originates in the employment. In addition, immunity from civil liability for all ~~such~~ causes of action except those based upon willful conduct shall also extend to ~~any workers' the~~ workers' compensation insurance carrier of the employer; ~~or any to a~~ person, firm, association, trust, fund, or corporation responsible for servicing and payment of workers' compensation claims for the employer; ~~or any to an~~ officer, director, agent, ~~servant~~ or employee of ~~such the~~ carrier, person, firm, association, trust, fund, or corporation; and to ~~any~~ a labor union, ~~or any~~ an official, or representative thereof;";

to a governmental agency providing occupational safety and health services, or an employee of the agency, and to any an officer, director, agent, servant or employee of the same employer, or his or her personal representative. Nothing in this section shall be construed to relieve any a person from criminal prosecution for failure or neglect to perform any a duty imposed by law.

"For the purpose of this section, ~~any~~ a carrier, person, firm, association, trust, fund, or corporation shall include ~~any a company or a governmental agency~~ making a safety inspection on behalf of ~~any a~~ self-insured employer or its employees and ~~any an~~ officer, director, agent, ~~servant~~ or employee of ~~such the~~ company or a governmental agency."

Section 14. Section 25-5-54, Code of Alabama 1975, is amended to read as follows:

"§25-5-54.

~~"All contracts of employment made on or after January 1, 1920, shall be presumed to have been made with reference to and subject to the provisions of this article. All contracts of employment made prior to, and existing on, January 1, 1920, shall be presumed to continue from and after January 1, 1920, subject to and under the provisions of this article. Every employer and employee, except as otherwise specifically provided in this article, shall be presumed to have accepted and come under this article and Article 4 of this chapter and the provisions thereof relating to the payment and acceptance of compensation."~~

Section 15. Section 25-5-55, Code of Alabama 1975, is amended to read as follows:

"§25-5-55.

~~"Minors shall, for~~ For the purposes of this article and Article 4 of this chapter, minors shall have the same power to contract, make settlements and receive compensation as adult employees, subject to the power of the court, in its discretion, ~~at any time~~ to require the appointment of a guardian to make ~~such the~~ settlement and to receive moneys thereunder or under an award. Payments of awards made to ~~such~~ minors or their guardians shall exclude any further compensation either to the minors or to their parents for loss of services or otherwise."

Section 16. Section 25-5-56, Code of Alabama 1975, is amended to read as follows:

"§25-5-56.

"The interested parties shall have the right to settle all matters of compensation benefits, whether involving compensation, medical payments, or rehabilitation, and all questions arising under this article and Article 4 of this chapter between themselves, and every settlement made under this article shall be in amount the same as the amounts or benefits stipulated in this article. No settlement for an amount less than the amounts or benefits stipulated in this article shall be valid for any purpose, unless a judge of the circuit court of the county where the claim for compensation under this chapter is entitled to be made, or upon the written consent of the parties, a judge of the circuit court of any county determines that it is for the best interest of the employee or his the employee's dependents dependent to accept a lesser sum and approves such the settlement. The court shall not approve any such settlement unless and until it has first made inquiry into the bona fides of a claimant's claim and the liability of the defendant; and if deemed advisable, the court may hold a hearing thereon. Any settlements Settlements made hereunder may be vacated for fraud, undue influence, or coercion, upon application made to the judge approving the settlement at any time not later than six months after the date of settlement. Upon such settlements being approved, judgment shall be entered thereon and duly entered on the records of said the court in the same manner and have the same effect as other judgments or as an award if the settlement is not for a lump sum. The costs of the proceedings shall not exceed \$2.00 and shall be borne by the employer. Such proceeding shall not be deemed subject to state trial, library or other taxes, general or local. All moneys voluntarily paid by the employer or insurance carrier to an injured employee in advance of agreement or award shall be treated as advance payments on account of the compensation. In order to encourage advance payments, it is expressly provided that such the payments shall not be construed as an admission of liability but shall be without prejudice."

Section 17. Section 25-5-57, Code of Alabama 1975, is amended to read as follows:

"§25-5-57.

"(a) Compensation schedule. Following is the schedule of compensation:

"(1) TEMPORARY TOTAL DISABILITY. For injury producing temporary total disability, the compensation shall be 66 2/3 percent of the average weekly earnings received at the time of injury,

subject to a maximum and minimum weekly compensation as stated in Section 25-5-68, but if at the time of injury the employee received average weekly earnings of less than the minimum stated in Section 25-5-68, then he or she shall receive the full amount of ~~such~~ the average weekly earnings per week. This compensation shall be paid during the time of ~~such~~ the disability, but at ~~such~~ the time as a temporary total disability shall become permanent, compensation for the continued total disability shall be governed by ~~the provisions of~~ (a)(4) of this section with respect to permanent total disability. Payments are to be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree.

"(2) TEMPORARY PARTIAL DISABILITY.

"a. Amount and Duration of Compensation. ~~In all cases of~~ For temporary partial disability, the compensation shall be 66 2/3 percent of the difference between the average weekly earnings of the ~~workman~~ worker at the time of the injury and the average weekly earnings he or she is able to earn in his or her partially disabled condition. This compensation shall be paid during the period of ~~such~~ the disability, but not, ~~however,~~ beyond 300 weeks. Payments shall be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree, and shall be subject to the same maximum weekly compensation as stated in Section 25-5-68.

"b. Effect of Change in Employment. If the injured employee who is receiving ~~such~~ compensation for temporary partial disability ~~should leave~~ leaves the employment of the employer by whom he or she was employed at the time of the accident for which ~~such~~ the compensation is being paid, he or she shall, upon securing employment elsewhere, give to ~~such~~ the former employer an affidavit in writing containing the name of his or her new employer, the place of employment, and the amount of wages being received at ~~such~~ the new employment, and until he or she gives ~~such~~ the affidavit, the compensation for temporary partial disability shall cease. The employer for whom ~~such~~ the employee was employed at the time of the accident for which ~~such~~ the compensation is being paid may also at any time demand of ~~such~~ the employee an additional affidavit, in writing, containing the name of his or her employer, the place of his or her employment, and the amount of wages he or she is receiving; and, if the employee upon ~~such~~ demand fails or refuses to make and furnish ~~such~~ the affidavit, his or her right to compensation for temporary partial disability shall cease until ~~such~~ the affidavit is made and furnished.

"(3) PERMANENT PARTIAL DISABILITY.

"a. Amount and Duration of Compensation. For permanent partial disability, the compensation shall be based upon the extent of ~~such~~ the disability. In cases included in the following schedule, the compensation shall be 66 2/3 percent of the average weekly earnings, during the number of weeks set out in the following schedule:-

"1. For the loss of a thumb, 62 weeks.

"2. For the loss of a first finger, commonly called the index finger, 43 weeks.

"3. For the loss of a second finger, 31 weeks.

"4. For the loss of a third finger, 22 weeks.

"5. For the loss of a fourth finger, commonly called the little finger, 16 weeks.

"6. The loss of the first phalange of the thumb or of any finger shall be considered as equal to the loss of one half of ~~such~~ the thumb or finger, and compensation shall be paid at the prescribed rate during one half of the time specified above for ~~such~~ the thumb or finger.

"7. The loss of two or more phalanges shall be considered as the loss of the entire finger or thumb, but in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

"8. For the loss of a great toe, 32 weeks.

"9. For the loss of any of the toes other than the great toe, 11 weeks.

"10. The loss of the first phalange of any toe shall be considered to be equal to the loss of one half of ~~such~~ the toe, and compensation shall be paid at the prescribed rate during one half the time prescribed above for ~~such~~ the toe.

"11. The loss of two or more phalanges shall be considered as the loss of an entire toe.

"12. For the loss of a hand, 170 weeks.

"13. For the loss of an arm, 222 weeks.

"14. For the loss of a foot, 139 weeks.

"15. Amputation between the elbow and wrist shall be considered as the equivalent to the loss of a hand, and amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot.

"16. For the loss of a leg, 200 weeks.

"17. For the loss of an eye, 124 weeks.

"18. For the complete and permanent loss of hearing in both ears, 163 weeks.

"19. For the complete and permanent loss of hearing in one ear, 53 weeks.

"20. For the loss of an eye and a leg, 350 weeks.

"21. For the loss of an eye and one arm, 350 weeks.

"22. For the loss of an eye and a hand, 325 weeks.

"23. For the loss of an eye and a foot, 300 weeks.

"24. For the loss of two arms, other than at the shoulder, 400 weeks.

"25. For the loss of two hands, 400 weeks.

"26. For the loss of two legs, 400 weeks.

"27. For the loss of two feet, 400 weeks.

"28. For the loss of one arm and the other hand, 400 weeks.

"29. For the loss of one hand and one foot, 400 weeks.

"30. For the loss of one leg and the other foot, 400 weeks.

"31. For the loss of one hand and one leg, 400 weeks.

"32. For the loss of one arm and one foot, 400 weeks.

"33. For the loss of one arm and one leg, 400 weeks.

"34. For serious disfigurement, not resulting from the loss of a member or other injury specifically compensated, materially affecting the

employability of the injured person in the employment in which he or she was injured or other employment for which he or she is then qualified, 66 2/3 percent of the average weekly earnings for such the period as the court may determine, but not exceeding 100 weeks.

"b. Successive or Concurrent Temporary Total and Permanent Partial Disabilities Resulting from Same Injury. When a permanent partial disability, the number of weeks compensation for which is scheduled in subdivision (a)(3) of this section, follows or accompanies a period of temporary total disability resulting from the same injury, the number of weeks of such the temporary total disability shall not be deducted from the number of weeks payable for such the permanent partial disability.

"c. Concurrent Disabilities. ~~Where~~ If an employee sustains concurrent injuries resulting in concurrent disabilities, he or she shall receive compensation only for the injury which entitled him or her to the largest amount of compensation, but this paragraph shall not affect liability for the concurrent loss of more than one member for which members compensation is provided in the specific schedule.

"d. Loss of Use of Member. ~~In all cases, the~~ The permanent and total loss of the use of a member shall be considered as equivalent to the loss of that member, but in such cases the compensation ~~in and by said specified in the schedule for such injury~~ shall be in lieu of all other compensation, except as otherwise provided herein. ~~In case of~~ For permanent disability due to injury to a member resulting in less than total loss of use of such the member not otherwise compensated in this schedule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss or total loss of use of the respective member which the extent of the injury to the member bears to its total loss.

"e. Effect of Refusal of Suitable Employment. If an injured employee refuses employment suitable to his or her capacity offered to or procured for him or her, he or she shall not be entitled to any compensation at any time during the continuance of such the refusal, unless at any time, in the opinion of the judge of the circuit court of the county of his or her residence, such the refusal is justifiable.

"f. Maximum and Minimum Compensation Awards. ~~All compensation~~ Compensation provided in this subsection (a) for loss of members or loss of use of members is subject to the same limitations as to maximum and minimum weekly compensation as stated in Section 25-5-68.

"g. Compensation for Permanent Partial Disabilities Not Enumerated. ~~In~~ For all other ~~cases of~~ permanent partial disability disabilities not above enumerated, the compensation shall be $66 \frac{2}{3}$ percent of the difference between the average weekly earnings of the ~~workman~~ worker at the time of the injury and the average weekly earnings he or she is able to earn in his or her partially disabled condition, subject to the same maximum weekly compensation as stated in Section 25-5-68. In making this evaluation, the court shall consider all available reasonable accommodations that would enable the employee in his or her condition following the accident or onset of occupational disease to perform jobs that he or she in that condition otherwise would be unable to perform, and shall treat an employee able to perform with such accommodation as though he or she could perform without the accommodation. ~~When~~ If a permanent partial disability, compensation for which is not calculated by use of the schedule in subdivision (a)(3) of this section, follows a period of temporary total disability resulting from the same injury, the number of weeks of ~~such~~ the temporary total disability shall be deducted from the number of weeks payable for ~~such~~ the permanent partial disability. Compensation shall continue during disability, but not, ~~however,~~ beyond 300 weeks.

"h. Affidavit of New Employment. ~~In case~~ If the injured employee leaves the services of the employer for whom he or she was working at the time of the accident and accepts employment elsewhere, he or she shall make and furnish affidavit as to his or her new employment in the manner as required in ~~subdivision~~ subsection (a)(2) of this section.

"i. If, on or after the date of maximum medical improvement, except for scheduled injuries as provided in Section 25-5-57(a)(3), an injured worker returns to work at a wage equal to or greater than the worker's pre-injury wage, the worker's permanent partial disability rating shall be equal to his or her physical impairment and the court shall not consider any evidence of vocational disability. Notwithstanding the foregoing, within a period of time not to exceed 300 weeks from the date of injury, if the employee loses his or her employment permanently through no fault of his or her own, the employee may petition for a hearing before the court and the court may consider at that time evidence as to the earnings the employee is or may be able to earn in his or her partially disabled condition. In making this evaluation, the court shall consider all available reasonable accommodations that would enable the employee in his or her condition following the accident or onset of occupational disease to perform jobs that he or she in that condition otherwise would be unable to perform, and shall treat an employee able to perform with such accommodation as though he or she could perform

without the accommodation.

"(4) PERMANENT TOTAL DISABILITY.

"a. Amount, Duration, and Payment of Compensation. For permanent total disability, as defined in paragraph d of this subdivision, the employee shall receive 66 2/3 percent of the average weekly earnings received at the time of the injury, subject to a maximum and minimum weekly compensation as stated in Section 25-5-68; provided, that, Notwithstanding the foregoing, if at the time of injury the employee was receiving earnings of less than the minimum as stated in Section 25-5-68, then he or she shall receive the full amount of his or her earnings per week. This compensation shall be paid during such the permanent total disability, as defined in said paragraph d. of this subdivision. Payment of such the compensation shall be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree. Such The payments, with the approval of the circuit judge or by the agreement of the parties, may be made monthly, quarterly, or otherwise as the parties may agree. Payments for permanent total disability shall not be ordered to be paid in a lump sum without the consent of both the employer and the employee.

"b. Alteration, Amendment, or Revision of Compensation. At any time, the employer may petition the circuit court which that awarded or approved compensation for permanent total disability to alter, amend, or revise the award or approval of such the compensation on the ground that as a result of physical or vocational rehabilitation, or otherwise, the disability from which the employee suffers is no longer a permanent total disability and, if the court is so satisfied after a hearing, it shall alter, amend, or revise the award accordingly. If compensation for permanent total disability is being paid pursuant to a written agreement between employer and employee without ~~court~~ approval, the employer may make application to a circuit court that would have had jurisdiction to award such the compensation to the employee to alter, amend, or revise the agreement on such grounds. If an employee is receiving benefits for permanent total disability other than as a result of an award or a written agreement between the employer and employee and if the employer terminates the payment of such the benefits, the employee may, within two years of the last payment, petition the court to reinstate such the benefits and, upon a showing that such the permanent total disability still exists, shall be entitled to have such the benefits reinstated effective the date of the last payment.

"c. Employees in Public Institutions. In case an employee, who is permanently and totally disabled, becomes an inmate of a public

institution, ~~then~~ no compensation shall be payable unless ~~he has the~~ employee has wholly dependent on him or her for support a person or persons named in Sections 25-5-61 and 25-5-62, whose dependency shall be determined as if the employee were deceased, in which case the compensation provided for in this subdivision shall be paid for the benefit of such the person so dependent, during dependency, in the manner so ordered by the court, while the employee is an inmate in such the institution; provided, however, that nothing. ~~Nothing~~ Nothing contained herein shall be construed to deprive a permanently and totally disabled employee who has no ~~dependents~~ dependent named in Sections 25-5-61 and 25-5-62 from receiving benefits to which he or she would otherwise be entitled if ~~said the~~ said the employee, although an inmate of a public institution, is paying or on whose behalf funds are paid from any source to ~~said the~~ said the public institution the normal and customary charge for the services rendered by ~~said the~~ said the public institution. Normal and customary charge shall mean that charge actually made by the public institution to persons able to pay for the services rendered them whether said charge actually covers the expense of the upkeep of ~~said the~~ said the inmate or not. ~~In the event said~~ If the employee has had a guardian appointed by a court of competent jurisdiction, said workmen's the workers' compensation payments shall be directly paid to ~~said the~~ said the guardian.

"d. Definition. The total and permanent loss of the sight of both eyes or the loss of both arms at the shoulder or any physical injury or mental impairment resulting from an accident, which injury or impairment permanently and totally incapacitates the employee from working at and being retrained for gainful employment, shall constitute prima facie evidence of permanent total disability ~~and but shall not~~ constitute the sole basis on which an award of permanent total disability may be based; provided, that any employee whose disability results from ~~such the~~ such the injury or impairment and who shall have refused to undergo physical or vocational rehabilitation, or to accept reasonable accommodation shall not be deemed permanently and totally disabled.

"e. Second Permanent Injuries Generally. If an employee has a permanent disability or has previously sustained another injury than that in which ~~he the~~ the employee received a subsequent permanent injury by accident, ~~such as is specified in the provisions of this section defining permanent injury, he the employee~~ shall be entitled to compensation only for the degree of injury that would have resulted from the latter accident if the earlier disability or injury had not existed.

~~"f. Second Permanent Injury Resulting in Permanent Total Disability Where First Injury Not in Same Employment. If an employee receives a permanent injury as specified in this section after having~~

~~sustained another permanent injury other than in the same employment, and if the combined effect of the previous and subsequent injury results in permanent total disability, compensation shall be payable for permanent total disability. Compensation for such permanent total disability shall be paid by the employer to the extent that such employer would have to pay compensation for the degree of injury that would have resulted from the accident if the earlier disability or injury had not existed, and the remainder of the amount of such compensation after the completion of such payments by the employer shall be paid by the director of industrial relations as trustee from any amounts from time to time standing to his account as such trustee in the second injury trust fund; provided, that in order to qualify for benefits from the second injury trust fund, the employer must have had prior knowledge of the previous injury of the employee, and such previous injury must have been of a disabling nature which adversely affected the employability of the employee.~~

"g f. Second Permanent Injury in Same Employment Resulting in Permanent Total Disability. If an employee receives a permanent injury as specified in this section after having sustained another permanent injury in the same employment, and if the previous and subsequent injuries result in permanent total disability, compensation shall be payable for permanent total disability only.

"h g. Concurrent Compensation Payments. If an employee received an injury for which compensation is payable while he or she is still receiving or entitled to receive compensation for a previous injury in the same employment, he or she shall not at the same time be entitled to compensation for both injuries, unless the later injury is a permanent injury, such as specified in this section, but he or she shall be entitled to compensation for that injury and from the time of that injury which will cover the longest period and the largest amount payable under this article and ~~article 2~~ Article 4 of this chapter.

"If an employee receives a permanent injury as specified in this section, after having sustained another permanent injury in the same employment, he or she shall be entitled to compensation for both injuries, subject to ~~the provisions of~~ paragraph e. of this subdivision, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation, and in no case for permanent partial disability exceeding 700 weeks.

"i h. Effect of Rehabilitation or Recovery on Permanent Total Disability Benefits. ~~In the event~~ If an employee who is receiving benefits for permanent total disability shall, as a result of physical or

vocational rehabilitation or otherwise, obtain gainful employment, the obligation to pay permanent total disability benefits shall thereupon terminate; provided, that at any time that the employee's weekly wage from ~~such~~ the employment shall be less than the employee's average weekly wage at the time of injury, the employer shall remain obligated to pay to the employee as compensation an amount equal to 66 2/3 percent of the difference, subject to each of the following limitations:

"1. The employer's liability for the payment of 66 2/3 percent of ~~such~~ the difference shall continue for 200 weeks from the date of reemployment or 300 weeks from the date of injury, whichever is the longer period; ~~and~~.

"2. In no event shall the amount of weekly benefits paid by the employer to the employee exceed the weekly benefit the employee was receiving for permanent total disability; ~~and~~.

"3. No payments shall be due for any week the employee earns as much as or more than his or her average weekly wage at the time of injury. If the employee who obtains gainful employment suffered a permanent partial disability as specified in subsection (c), paragraph 1, of this section, the total amount of compensation paid for permanent total disability shall not be less than that amount which would have been payable for ~~such~~ the permanent partial disability.

"j i. Affidavit of Gainful Employment. ~~In the event~~ If an employee who is receiving benefits for permanent total disability shall, as the result of physical or vocational rehabilitation, accommodation, or otherwise, obtain gainful employment with an employer other than with his or her former employer, he or she shall, upon securing ~~such~~ employment, give to his or her former employer an affidavit in writing containing the name of his or her new employer, the place of employment and the amount of wages being received at ~~such~~ the new employment; and, until he or she gives ~~such~~ the affidavit, the compensation for permanent total disability shall cease. The employer for whom ~~such~~ the employee was employed at the time of the accident for which compensation is being paid may also at any time demand of ~~such~~ the employee additional affidavit, in writing, containing the name of his or her employer, the place of his or her employment, and the amount of wages he or she is receiving; and, if the employee, upon ~~such~~ demand, fails or refuses to make and furnish ~~such~~ the affidavit, his or her rights to compensation shall cease until ~~such~~ the affidavit is made and furnished.

"(5) DEATH FOLLOWING DISABILITY. ~~In case a workman~~

~~sustained~~ If an employee sustains an injury occasioned by an accident arising out of and in the course of his or her employment and, during the period of disability caused thereby, death results proximately therefrom, all payments previously made as compensation for ~~such the~~ injury shall be deducted from the compensation, if any, due on account of death. If ~~a workman~~ an employee who ~~has sustained~~ sustains a permanent partial or permanent total disability, the degree of which has been agreed upon by the parties or has been ascertained by the court, and death results not proximately therefrom, the employee's surviving spouse ~~and/or~~ or dependent children or both shall be entitled to the balance of the payments which would have been due and payable to the ~~workman~~ worker, whether or not the decedent employee was receiving compensation for permanent total disability, not exceeding, however, the amount that would have been due the surviving spouse ~~and/or~~ or dependent children or both if death had resulted proximately from ~~the injury~~. ~~Except as provided in this subdivision, no benefits shall be payable on account of death resulting, proximately or not proximately,~~ from an injury on account of which compensation is being paid to an employee.

"(6) HERNIA.

"a. Proof. ~~In all claims for compensation for~~ For hernia resulting from injury by an accident arising out of and in the course of ~~his the employee's~~ employment, it must be definitely proven to the satisfaction of the court all of the following:

- "1. That there was an injury resulting in hernia_r.
- "2. That the hernia appeared suddenly_r.
- "3. That it was accompanied by pain_r.
- "4. That the hernia immediately followed an accident, ~~and~~_r.

"5. That the hernia did not exist prior to the accident for which compensation is claimed.

"b. Treatment. All hernia, inguinal, femoral, or otherwise, ~~so~~ proved to be the result of an injury by accident arising out of and in the course of the employment, shall be treated in a surgical manner by radical operation. ~~In case~~ If the injured employee refuses to undergo the radical operation for the cure of ~~said the~~ hernia, no compensation will be allowed during the time ~~such the~~ refusal continues. If, however, it is shown that the employee has some chronic disease or is otherwise in

~~such~~ physical condition that the court considers it unsafe for the employee to undergo ~~said the~~ operation, the employee shall be paid as otherwise provided in this chapter.

"(b) Computation of compensation; determination of average weekly earnings.-- Compensation under this section shall be computed on the basis of the average weekly earnings. Average weekly earnings shall ~~mean the earnings~~ be based on the wages, as defined in Section 25-5-1(6) of the injured employee in the employment in which he or she was working at the time of the injury during the period of 52 weeks immediately preceding the date of the injury divided by 52, but if the injured employee lost more than seven consecutive calendar days during ~~such the~~ period, although not in the same week, then the earnings for the remainder of ~~such the~~ period, although not in the same week, then the earnings for the remainder of ~~such the~~ 52 weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. Where the employment prior to the injury extended over a period of less than 52 weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, provided results just and fair to both parties will thereby be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of his or her employer or the casual nature or terms of the employment it is impracticable to compute the average weekly earnings as above defined, regard shall be had to the average weekly amount which during the 52 weeks prior to the injury was being earned by a person in the same grade, employed at the same work by the same employer, and if there is no ~~such~~ person so employed, by a person in the same grade employed in the same class of employment in the same district. Whatever allowances of any character made to an employee in lieu of wages are specified as part of the wage contract shall be deemed a part of his or her earnings.

"(c) Setoff for Other Recovery. In calculating the amount of workers' compensation due:

"(1) The employer may reduce or accept an assignment from an employee of the amount of benefits paid pursuant to a disability plan or other plan providing for sick pay by the amount of compensation paid, if and only if the employer provided the benefits or paid for the plan or plans providing the benefits deducted.

"(2) The employee shall forfeit to the employer all compensation paid for any period to which is attributed any award of back pay either by a court, administrative agency, arbitration, or settlement.

"(3) If an employer continues the salary of an injured employee during the benefit period or pays similar compensation during the benefit period in lieu of workers' compensation benefits, it shall be allowed a setoff in weeks against the compensation owed under this article."

Section 18. Section 25-5-58, Code of Alabama 1975, is amended to read as follows:

"§25-5-58.

"If the degree or duration of disability resulting from an accident is increased or prolonged because of a preexisting injury or infirmity, then without regard to whether the preexisting injury combined with the compensable accident produces the current disability and regardless of whether it affected pre-accident ability to work, the employer shall be liable only for the disability that would have resulted from the accident had the earlier injury or infirmity not existed."

Section 19. Sections 25-5-59 and 25-5-60, Code of Alabama 1975, are amended to read as follows:

"§25-5-59.

~~"(a) In cases of temporary total or temporary partial disability, no compensation shall be allowed for the first three days after disability, except as provided by section 25-5-77, nor~~ For purposes of this article, ~~except for scheduled injuries as provided in Section 25-5-57(a)(3), compensation for the first three days of disability shall not be payable, nor shall compensation be paid in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in Section 25-5-78.~~

"(b) Compensation shall begin with the fourth day after disability, and, ~~in the event~~ if the disability from the injury exists for a period as much as 21 days, compensation for the first three days after the injury shall be added to and payable with the first installment due the employee after the expiration of the 21 days. If any installment of compensation payable is not paid without good cause within 30 days after it becomes due, there shall be added to ~~such the~~ unpaid installment an amount equal to ~~40~~ 15 percent thereof, which shall be paid at the same time as, but in addition to, ~~such the~~ installment.

"§25-5-60.

"In death cases, where the death results proximately from the

accident within three years, compensation payable to dependents shall be computed on the following basis and shall be paid to the persons entitled thereto without administration, or to a guardian or ~~such~~ other person as the court may direct, for the use and benefit of the person entitled thereto.

"(1) PERSONS ENTITLED TO BENEFITS; AMOUNT OF BENEFITS.

"a. If the deceased employee leaves one dependent, there shall be paid to the dependent 50 percent of the average weekly earnings of the deceased.

"b. If the deceased employee leaves two or more dependents, there shall be paid to the dependents 66 2/3 percent of the average weekly earnings of the deceased.

"c. If one of two or more dependents is a widow or widower, the compensation may be paid to the widow or widower for the benefit of herself or himself and the dependent child or children. In its discretion and when it considers appropriate to do so, the court shall at any time have the power to determine, without the appointment of any guardian or guardians, what portion of the compensation shall be applied for the benefit of any ~~such~~ child or children and may order the same paid to a guardian or custodian of ~~such~~ the child or children.

"d. Partial dependents shall be entitled to receive only that proportion of the benefits provided for total dependents which the average amount of the earnings regularly contributed by the deceased employee to ~~such~~ the partial dependent, at and for a reasonable time immediately prior to the injury, bore to the total income of the dependent during the same time. If there is one dependent and one or more partial dependents and the dependent is not entitled to the maximum amount of compensation provided in Section 25-5-68, there shall be paid to the partial dependent or partial dependents that percentage of the benefit paid to a full dependent which the contribution of the decedent to the partial dependent's support bears to the total income of the partial dependent; provided, that the compensation payable to ~~such~~ the partial dependent or dependents shall not exceed the lesser of 16 2/3 percent of the decedent's average weekly wage or the difference between the compensation payable to the full dependent and the maximum weekly compensation benefit payable as provided in Section 25-5-68.

"e. If compensation is being paid under this article to any dependent, ~~such~~ the compensation shall cease upon the death or mar-

riage of ~~such~~ the dependent, unless otherwise provided in this article.

"f. Upon the cessation of compensation to or for any dependent, for any cause, the compensation of the remaining dependents entitled to compensation shall, for the unexpired period during which their compensation is payable, be that which would have been payable to them had they been the only persons entitled to compensation at the time of death of the deceased employee.

"g. If, however, the deceased employee at the time of his or her death has no dependents as herein defined, then within 60 days of his or her death, the employer shall pay a one-time lump sum payment of seven thousand five hundred dollars (\$7,500) to the deceased worker's estate.

"(2) MAXIMUM AND MINIMUM COMPENSATION AWARDS. -- The compensation payable in case of death to persons wholly dependent shall be subject to a maximum and minimum weekly compensation as stated in Section 25-5-68, but if at the time of injury the employee receives earnings of less than the minimum stated in Section 25-5-68, then the compensation shall be the full amount of such earnings per week. The compensation payable to partial dependents shall be subject to a maximum and minimum weekly compensation as stated in Section 25-5-68, but if the income loss of said the partial dependents by ~~such the~~ death is less than the minimum weekly compensation stated in Section 25-5-68, then the dependents shall receive the full amount of their income loss. This compensation shall be paid during dependency, not exceeding 500 weeks. Payments shall be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree."

Section 20. Section 25-5-66, Code of Alabama 1975, is amended to read as follows:

"§25-5-66.

"In case of the remarriage of a widow of an employee who has another dependent ~~children~~, the unpaid balance of compensation, which would otherwise become due her, shall be paid to ~~such children the~~ dependent or may, on approval by the court, be paid to some suitable person designated by the court for the use and benefit of ~~such children the dependent~~. Payment to ~~such~~ that person shall discharge the employer from any further liability."

Section 21. Section 25-5-67, Code of Alabama 1975, is

amended to read as follows:

"§25-5-67.

~~"In all cases where~~ If death results to an employee caused by as the result of an accident or an occupational disease arising out of and in the course of ~~his~~ the employee's employment, the employer shall pay, in addition to the medical and hospital expenses provided for in Section 25-5-77, the expenses of burial, not exceeding in amount \$1,000.00 ~~three thousand dollars (\$3,000)~~. ~~In case~~ If a dispute arises as to the reasonable value of the services rendered in connection with the burial, the same shall be approved by the court before payment after ~~such~~ reasonable notice to interested parties as the court may require."

Section 22. Section 25-5-68, Code of Alabama 1975, is amended to read as follows:

"§25-5-68.

~~"(a) With respect to injury or death resulting from an accident occurring before February 1, 1985, the compensation paid under this article shall be not less than, except as otherwise provided in this article, 25 percent of the average weekly wage of the state as determined by the director of industrial relations (rounded to the nearest dollar) pursuant to subsection (c) of this section and, in any event, no more than 66 2/3 percent of such average weekly wage of the state.~~

~~"(b) (a) With respect to injury or death resulting from an accident occurring on or after February 1, 1985, the~~ The compensation paid under this article shall be not less than, except as otherwise provided in this article, 27 1/2 percent of the average weekly wage of the state as determined by the director of industrial relations ~~(, rounded to the nearest dollar),~~ pursuant to subsection ~~(c)~~ (b) of this section and, in any event, no more than 100 percent of ~~such the~~ average weekly wage, ~~except that.~~ Notwithstanding the foregoing, the maximum compensation payable for permanent partial disability shall be no more than the lesser of \$220.00 ~~two hundred twenty dollars (\$220)~~ per week or 100 percent of ~~such the~~ average weekly wage.

~~"(c) (b)~~ For the purpose of this section, the average weekly wage of the state shall be determined by the director of industrial relations as follows: On or before June 1 of each year, the total wages reported on contribution reports to the unemployment compensation division of the department of industrial relations for the preceding calendar year shall be divided by the average monthly number of insured

workers ~~(, which shall be determined by dividing the sum of the number of insured workers reported for each month of the preceding year by 12).~~ The average annual wage thus obtained shall be divided by 52, and the average weekly wage thus determined rounded to the nearest cent. The average weekly wage as so determined shall be applicable for the 12-month period beginning July 1 following the June 1 determination. If ~~such~~ the determination shall not be made on or before June 1, the effective date of the average weekly wage when determined shall be the first day of the month next following 30 days after ~~such~~ the determination is made.

"~~(d)~~ (c) The maximum and minimum weekly benefit shall not be changed on any July 1 or as a result of any annual determination, unless the computation provided for in subsection ~~(c)~~ (b) of this section results in an increase or decrease of ~~\$2.00~~ two dollars (\$2) or more in the amount of either the maximum or minimum benefit.

"~~(e)~~ (d) In no event, except as provided for permanent total disability in subdivision (a)(4) of Section 25-5-57 or except for compensation benefits payable for permanent partial and temporary total disability in connection with a disability scheduled in subdivisions (1) and (3) of subsection (a) of Section 25-5-57, shall the total amount of compensation payable for ~~any~~ an accident or an occupational disease exceed the product of 500 times the maximum weekly benefit applicable on the date of the accident.

"~~(f)~~ (e) The minimum and maximum benefits that are in effect on the date of the accident which results in injury or death shall be applicable for the full period during which compensation is payable."

Section 23. Sections 25-5-70 to 25-5-75, inclusive, Code of Alabama 1975, are repealed.

Section 24. Section 25-5-77, Code of Alabama 1975, is amended to read as follows:

"§25-5-77.

"(a) In addition to the compensation provided in this article and Article 4 of this chapter, the employer, where applicable, shall pay the actual cost of the repair, refitting, or replacement of artificial members damaged as the result of an accident arising out of and in the course of employment, and the employer, except as otherwise provided in this act, shall pay an amount not to exceed the actual cost prevailing rate of reimbursement or payment of reasonably necessary medical and surgical

treatment and attention, physical rehabilitation, medicine, medical and surgical supplies, crutches, artificial members, and other apparatus as the result of an accident arising out of and in the course of employment, as may be obtained by the injured employee or, in case of death, obtained during the period occurring between the time of the injury and his the employee's death therefrom. If the employee is dissatisfied with the initial treating physician selected by the employer and if further treatment is required, the employee may so advise the employer, and ~~in such event~~ the employee shall be entitled to select a second physician from a panel or list of four physicians selected by the employer. ~~In the event~~ If surgery is required, and if the employee is dissatisfied with the designated surgeon, he or she may so advise the employer, and ~~in such event~~ the employee shall be entitled to select a second surgeon from a panel or list of four surgeons selected by the employer. If four physicians or surgeons are not available to be listed, the employer shall include on the list as many as are available. The four physicians or surgeons selected by the employer hereunder shall not be from or members of the same firm, partnership, or professional corporation. The total liability of the employer shall, unless otherwise provided in this act, be limited to such charges as prevail for similar treatment in the community where the injured employee resides not exceed the prevailing rate of reimbursement or payment for similar treatment in the State of Alabama. Notwithstanding the foregoing, in ascertaining the prevailing rate of reimbursement or payment with regard to participating hospitals and ambulatory surgical centers or outpatient rehabilitation centers licensed by the State of Alabama, the prevailing rate shall be negotiated with each individual hospital, ambulatory surgical center, or licensed outpatient rehabilitation facility based on that institution's expenditure for diagnosis and treatment of comparable type cases for the 12-month period immediately preceding the effective date of this legislation. These rates will be updated every 12 months thereafter. Initial rates shall be established within six months of passage of this bill. For those non-participating hospitals the prevailing rate shall be determined by a committee. In the first year the committee shall be composed of five members. The director shall appoint one member from the Department of Industrial Relations and two members from the community where the non-participating hospital is located. The non-participating hospital shall appoint two members. This committee shall by a majority vote establish the maximum rates of reimbursement or payment for the non-participating hospital, and the hospital shall be bound for one year by said determined rates of reimbursement or payment for workers' compensation cases. If after the first year since the rates were established by this committee, the hospital is again non-participating, then another committee shall be appointed. This committee shall have three members selected by the non-participating hospital and two

members selected by the director. The committee composition shall alternate as above described each year the hospital is non-participating. The total liability of the employer shall not exceed the rates established by the committee. This committee in determining the rates of reimbursement or payments to the hospital may consider such factors as the hospital's size, staffing, medical equipment, and any other factors which the committee may consider relevant. ~~In case~~ If an insurer of the employee or a benefit association has paid or is liable for ~~such the~~ employee's medical, surgical, and hospital service or for a part thereof, or ~~in case~~ if the employee is entitled to the same or a part thereof, from any source whatever by virtue of any agreement or understanding or law, state or federal, without any loss of benefit to the employee, the employer shall not be required ~~in such case~~ to pay any part of ~~such the~~ expense, ~~unless said;~~ If the benefits are insufficient to pay all ~~such the~~ employee's expense, ~~and in such event~~ the employer shall be liable for the deficiency only. All cases of dispute as to the necessity and value of ~~such the~~ services shall be determined by the tribunal having jurisdiction of the claim of the injured employee for compensation.

"(b) ~~The~~ If requested to do so by the employer, the injured employee ~~must shall~~ submit himself to examination by the employer's physician at all reasonable times, ~~if requested to do so by the employer,~~ but the employee shall have the right to have a physician of his or her own selection present at ~~such the~~ examination, in which case the employee shall be liable to ~~such the~~ physician of his or her own selection for his or her services. The employer shall pay for the services of the physician making the examination at the instance of the employer. ~~And in case of~~ If a dispute arises as to the injury, or as to the extent of the disability therefrom, the court may, at the instance of either party or of its own motion, appoint a neutral physician of good standing and ability to make an examination of the injured ~~person~~ employee and to report his or her findings to the court, the expense of which examination shall be borne equally by the parties. If the injured employee refuses to comply with ~~any~~ reasonable request for examination, or refuses to accept the medical service or physical rehabilitation, which the employer elects to furnish under ~~the provisions of~~ this chapter, ~~his the~~ employee's right to compensation shall be suspended and no compensation shall be payable for the period of ~~such the~~ refusal. ~~Any~~ A physician whose services are furnished or paid for by the employer, or ~~any~~ a physician of the injured employee who treats or makes or is present at any examination of ~~any an~~ injured employee may be required to testify as to any knowledge obtained by him or her in the course of ~~such the~~ treatment or examination as ~~same the treatment or examination~~ related to the injury or ~~the~~ disability arising therefrom. ~~Any such~~ The physician shall, upon written request of the injured employee or his or her employer and without consent of

or notice to the employee or employer not making such the request, furnish such the injured employee or his or her employer a written statement of his or her professional opinion as to the extent of the injury and disability. In all death claims where the cause of death is obscure or is disputed, any interested party may require an autopsy, the cost of which is to be borne by the party demanding the ~~same~~ autopsy. The term 'physicians' shall include medical doctor, surgeon, and chiropractor. ~~Any A~~ A hospital, medical clinic, rehabilitation service, or other person or entity providing treatment to an employee or providing facilities at which the employee receives treatment shall, upon the written request of the employee or of the employer, furnish, at a reasonable cost, the employee or the employer a copy of the records, including X-rays and laboratory reports, relating to such the treatment of the injured employee. ~~Such The~~ The copy may be furnished without the consent of or notice to the employee or employer not making such the request. ~~Any A~~ A physician, hospital, medical clinic, rehabilitation service, or other person or entity providing ~~any~~ written statement of professional opinion or copies of records pursuant to this subsection shall not be liable to any person for ~~any a~~ a claim arising out of the release of medical information concerning the employee.

"(c) If the employer so elects, the employee shall submit to and undergo vocational rehabilitation at the employer's expense through a vocational rehabilitation facility or institution recommended by a vocational rehabilitation specialist, ~~which facility or institution who~~ shall be qualified to render competent vocational rehabilitation service. If an employee who is unable in the opinion of the treating physician to return to his or her former employment shall request vocational rehabilitation and if both a vocational rehabilitation specialist and a treating physician, the cost of whose service is the obligation of the employer under this section, shall express their opinions in writing that in the judgment of each of them vocational rehabilitation is reasonably calculated to restore the employee to gainful employment and is in the best interest of the employee, the cost of such the rehabilitation shall be borne by the employer. ~~Such The~~ The cost, where rehabilitation requires residence at or near a facility or institution away from the employee's customary residence, shall include reasonable charges for the employee's necessary board, lodging, and travel.

~~"(d) Refusal of the employee to accept rehabilitation at the employer's request shall result in loss of compensation for each week of the period of refusal.~~

"(d) If an employee refuses, without the consent of the court, to accept vocational rehabilitation at the employer's request, the refusal

shall result in loss of compensation for the period of refusal.

"(e) All disputes with regard to vocational rehabilitation may be submitted to the court for resolution.

"(f) The employer shall pay mileage costs to and from medical and rehabilitation providers at the same rate as provided by law for official state travel.

"(g) In a compensable workers' compensation claim, the injured employee shall not be liable for payment of any authorized and compensable medical expenses associated with the workers' compensation claim.

"(h) All undisputed medical reimbursements or payments shall be made within 25 working days of receipt of claims in the form prescribed and approved by the director. There shall be added to any invoice which is not paid within 25 working days an amount equal to 10 percent of the unpaid balance. Notwithstanding the foregoing, after one year from the date of the implementation of this subsection (h), all payments shall be made within 15 working days of receipt of claims in the form prescribed and approved by the director."

Section 25. (a) Any party, including a health care provider, is entitled to a review by a Workers' Compensation Specialist of medical services that are provided or for which authorization of payment is sought if any party or the health care provider has any of the following:

(1) Been denied payment or had the charge reduced for medical services rendered.

(2) Been denied authorization for the payment of services requested or performed when authorization is required by the medical policies of the director.

(3) Been ordered by the director to refund payments received for the provision of medical services.

(b) A party to a medical dispute that remains unresolved after a review of medical services as provided by this section may petition the circuit court for relief.

(c) Notwithstanding the foregoing, disputes relating to the provision of medical services, as defined in Section 58 of this act, or payments therefor, must be resolved according to the dispute resolution mechanism established by the Workers' Compensation Medical Services

Board, as established by this act.

Section 26. Section 25-5-78, Code of Alabama 1975, is amended to read as follows:

"§25-5-78.

"Every For purposes of this article only, an injured employee or his the employee's representative shall, within five days after the occurrence of an accident, shall give or cause to be given to the employer written notice of the accident, and the employee, if he fails to give such notice, if the notice is not given, the employee or the employee's dependent shall not be entitled to physician's or medical fees nor any compensation which may have accrued under the terms of this article and article 2 of this chapter, unless it can be shown that the party required to give such the notice had been prevented from doing so by reason of physical or mental incapacity, other than minority, fraud or deceit, or equal good reason, but no compensation shall be payable unless such the written notice is given within 90 days after the occurrence of the accident or, where if death results, within 90 days after the death."

Section 27. Section 25-5-80, Code of Alabama 1975, is amended to read as follows:

"§25-5-80.

"In case of a personal injury, not involving cumulative physical stress, all claims for compensation under this article and article 2 of this chapter shall be forever barred unless within two years after the accident the parties shall have agreed upon the compensation payable under this article and article 2 of this chapter or unless within two years after the accident one of the parties shall have filed a verified complaint as provided in section 25-5-88. In cases involving personal injury due to cumulative physical stress in which the employee can identify no single event as precipitating the personal injury, compensation under this article shall be forever barred unless within six months after the date of the injury one of the parties shall have filed a verified complaint as provided in Section 25-5-88. In case of death, all claims for compensation shall be forever barred unless within two years after death, when the death results proximately from the accident within three years, the parties shall have agreed upon the compensation under this article and article 2 of this chapter, or unless within two years after such the death one of the parties shall have filed a verified complaint as provided in section Section 25-5-88. Where, however, payments of compensation as distinguished from medi-

cal or vocational payments have been made in any case, said limitations shall not take effect until the expiration of two years from the time of making the last payment. In case of physical or mental incapacity, other than the minority of the injured person or his or her dependents, to perform or cause to be performed any act required within the time in this section specified, the period of limitation in any such case shall be extended to become effective two years from the date when such the incapacity ceases."

Section 28. Section 25-5-81, Code of Alabama 1975, is amended to read as follows:

"§25-5-81.

"(a) Commencement of action in circuit court.

"(1) PROCEDURE. -- In case of a dispute between employer and employee or between the dependents of a deceased employee and his employer with respect to the right to compensation under this article and article 2 of this chapter, or the amount thereof, either party may submit the controversy to the circuit court of the county which would have jurisdiction of a civil action in tort between the same parties. Such controversy shall be heard and determined by such judge or judges of said court as would hear and determine a civil action between the same parties arising out of tort, and, in case there is more than one judge of such court, such controversies shall be set and assigned for hearing under the same rules and statutes that civil actions in tort are set and assigned. Such court may hear and determine such controversies in a summary manner. The decision of the judge hearing the same shall be conclusive and binding between the parties, subject to the right of appeal provided for in this article.

"(2) STANDARD OF PROOF. -- The decision of the court shall be based on a preponderance of the evidence as contained in the record of the hearing, except in cases involving injuries which have resulted from gradual deterioration or cumulative physical stress disorders, which shall be deemed compensable only upon a finding of clear and convincing proof that those injuries arose out of and in the course of the employee's employment. For purposes of this section, clear and convincing shall mean evidence that, when weighed against evidence in opposition, will produce in the mind of the trier of fact a firm conviction as to each essential element of the claim and a high probability as to the correctness of the conclusion. Proof by clear and convincing evidence requires a level of proof greater than a preponderance of the evidence or the substantial weight of the evidence, but less than beyond a reasonable doubt.

"(2) (3) RIGHT TO JURY TRIAL. -- When wilful misconduct on the part of the employee is set up by the employer, as it is provided for in this article, the employer may, upon appearing, demand a jury to hear and determine, under the direction of the court, the issues involved in this defense. If the employer fails to demand a jury upon appearing, the employee may demand a jury to try such issues by filing his demand within five days after the appearance of the employer. When a jury is demanded by either party, the court must submit the issues of fact as to wilful misconduct set up by the employer to the jury, for a special finding of the facts subject to the usual powers of the court over verdicts rendered contrary to the evidence or the law, but the judge must determine all other questions involved in the controversy without a jury. Upon setting up such defense, the employer must serve a copy of the answer, setting up the defense, upon the employee or his attorney of record.

"(b) Court deemed open at all times. -- For the purpose of hearing and determining controversies between an employer and employee or the dependents of a deceased employee and the employer, arising under this article and article 2 of this chapter, the circuit court shall be deemed always in session.

"(c) Interpleader of adverse claimants to compensation. -- If at any time there are adverse claimants to compensation under this article, the employer, in submitting said claim to said circuit court, may suggest in writing said claimants, and they shall be required to interplead. Said court shall determine and order to which claimant or claimants such compensation is justly due, and said employer, upon complying with the order of such judge, shall be released from the claims of any other claimants thereto.

"(d) Review. -- From such order or judgment, any aggrieved party may, within 42 days thereafter, appeal to the court of civil appeals and such review shall be as ~~in cases reviewed by certiorari.~~ follows:

"(1) In reviewing the standard of proof as set forth herein and other legal issues, review by the Court of Civil Appeals shall be without a presumption of the correctness of the ruling below.

"(2) In reviewing pure findings of fact, the finding of the circuit court shall not be reversed if that finding is supported by substantial evidence."

Section 29. Section 25-5-83, Code of Alabama 1975, is amended to read as follows:

"§25-5-83.

"By agreement of the parties and with approval of the court, the amounts of compensation payable periodically, under this article and Article 4 of this chapter, may be commuted to one or more lump sum payments. No ~~such~~ commutation shall be approved by the court unless the court is satisfied that it is in the best interest of the employee or the employee's ~~dependents~~ dependent, in case of death, to receive the compensation in a lump sum rather than in periodic payments. In making ~~such~~ the commutations, the lump sum payment shall, in the aggregate, amount to a sum equal to the present value of all future installments of compensation calculated on a six percent basis."

Section 30. Section 25-5-85, Code of Alabama 1975, is amended to read as follows:

"§25-5-85.

"At any time after the amount of ~~any~~ an award has been agreed upon by the parties or found and ordered by the court, a sum equal to the present value of all future installments of compensation calculated on a six percent basis may, where death or the nature of the injury renders the amount of future payments certain, by leave of court, be paid by the employer to ~~any savings~~ a bank or trust company of this state or ~~any~~ a national bank doing business in this state to be approved and designated by the court, and ~~such~~ the sum, together with all interest thereon, shall thereafter be held in trust for the employee or ~~dependents~~ dependent of the employee, who shall have no further recourse against the employer. The payment of ~~such~~ the sum by the employer, evidenced by the receipts in duplicate of the trustees, one of which shall be filed with the probate judge of the county in which the injury or death occurred and the other filed with the clerk of the circuit court, shall operate as a satisfaction of ~~said~~ the award as to the employer, and the trustee designated by the court shall be allowed to pay itself from ~~said~~ the fund a reasonable compensation for acting as ~~such~~ the trustee, which compensation shall be fixed by the court in the order making ~~such~~ the designation. Payments from ~~said~~ the fund shall be made by the trustee in the same amounts and at the same time as are required in this article of the employer until ~~said~~ the fund, after deducting the trustee's compensation as above provided, and interest shall be exhausted. In the appointment of the trustee, preference shall be given, in the discretion of the court, to the choice of the injured employee or the ~~dependents~~ dependent of the deceased employee ~~as the case may be. In the event~~ If the right to receive compensation should terminate on account of death, becoming of age, or marriage, or for any other cause as provided in this article, the balance

remaining in ~~said~~ the bank or trust company after ~~such~~ the termination should be returned by them to the employer, his or her successor, or assigns."

Section 31. Section 25-5-86, Code of Alabama 1975, is amended to read as follows:

"§25-5-86.

"For purposes of this article and Article 4 of this chapter:

"(a) (1) In all cases in which If the award, order, or judgment settlement agreement is payable in installments and default has been made in the payment of any an installment, the owner or interested party may, upon the expiration of 30 days from said the default and upon five days' notice to the defaulting employer or defendant, move for a modification of the judgment award or award settlement agreement by ascertaining the cash or present value of same the case, including the 15 percent penalty provision of Section 25-5-59, under the rule of computation contained in Section 25-5-85, and upon which execution may issue; unless however, the defaulting employer enters may relieve itself of the execution by entering into a good and sufficient bond, to be approved by the circuit judge, securing the payment of all future installments, and forthwith pays all past due installments with interest and penalty thereon since due. Said The bond shall be recorded upon the minutes of the circuit court.

"(b) (2) Claims for compensation, or awards, or judgments, or agreements to pay compensation owned by an injured employee or his or her dependents dependent shall not be assignable and shall be exempt from seizure or sale or garnishment for the payment of any debt or liability. There shall be no right to waive this exemption."

Section 32. Section 25-5-90, Code of Alabama 1975, is amended to read as follows:

"§25-5-90.

"No part of the compensation payable under this article and Article 4 of this chapter shall be paid to attorneys an attorney for the plaintiff claimant for legal services, unless, upon the application of the plaintiff to a judge of the circuit court, such the judge shall order or approve of the employment of an attorney by the plaintiff; and in such event, the judge, upon the hearing of the complaint for compensation, either by law or by settlement, shall fix the fee of the attorney for the plaintiff for his

or her legal services and the manner of its payment, but ~~such the~~ fee shall not exceed 15 percent of the compensation awarded or paid."

Section 33. (a) It is the intent of the Legislature to promote safety education, safety planning, and to provide technical assistance.

(b) The director shall coordinate with the Safe State Program, the safety and health consulting service, to establish a safety program for cooperating with industry to promote safety and provide technical assistance. Emphasis shall be placed on unsafe acts in small industry and high risk industry.

(c) Qualified safety management specialists shall be employed in the Safe State Program to assist employers in developing or improving their safety programs. Safe State Program personnel shall, upon referral by the director of an employer's request, make inspections for safety monitoring and report the resulting findings and recommendations to the employer and to the director.

(d) The Safe State Program shall establish and collect reasonable fees for technical and consultative safety services, that are not required by law, provided to persons requesting the services from or through the workers' compensation division.

Section 34. Section 25-5-110, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 4.

"COMPENSATION FOR OCCUPATIONAL DISEASES ~~GENERALLY.~~

"§25-5-110.

"For the purposes of this article, the following terms shall have the meanings respectively ascribed to them by this section:

"(1) OCCUPATIONAL DISEASE. A disease arising out of and in the course of employment, ~~other than including~~ occupational pneumoconiosis and occupational exposure to radiation as defined in ~~articles 5 and 7, respectively, of this chapter~~ subsections 2 and 3, respectively, ~~of this section~~, which is due to hazards in excess of those ordinarily incident to employment in general and is peculiar to the occupation in which the employee is engaged but without regard to negligence or fault, if any, of the employer. A disease, ~~(including, but not limited to, loss~~

of hearing due to noise), shall be deemed an occupational disease only if caused by a hazard recognized as peculiar to a particular trade, process, occupation, or employment as a direct result of exposure, over a period of time, to the normal working conditions of such the trade, process, occupation, or employment. ~~The term "occupational disease" shall not include accidents within the meaning of articles 3, 5 and 7 of this chapter.~~

"(2) OCCUPATIONAL PNEUMOCONIOSIS. A disease of the lungs caused by inhalation of minute particles of dust over a period of time, which dust is due to causes and conditions arising out of and in the course of the employment, without regard to whether the causes or conditions are inherent in the employment or can be eliminated or reduced by due care on the part of the employer. The term 'occupational pneumoconiosis' shall include, but without limitation, such diseases as silicosis, siderosis, anthracosis, anthrasilicosis, anthraco-silicosis, anthraco-tuberculosis, tuberculosilicosis, silico-tuberculosis, aluminosis, and other diseases of the lungs resulting from causes enumerated in this section.

"(3) OCCUPATIONAL EXPOSURE TO RADIATION. Gradual exposure to radiation over a period of time from the use of or direct contact with radium, radioactive substances, roentgen rays (X-rays), or ionizing radiation, arising out of and in the course of the employment and resulting from the nature of the employment in which the employee is engaged, without regard to whether or not the exposure is inherent in the employment or can be eliminated or reduced by due care on the part of the employer.

"(4) NATURE OF EMPLOYMENT. With respect to subdivisions (2) and (3) above, this term shall mean that, as to the industry in which the employee is engaged, there is attached a particular hazard of the exposure that distinguishes it from the usual run of occupations and is in excess of the hazards of the exposure attending employment in general.

"(5) CONTRACTION OF AN OCCUPATIONAL DISEASE. ~~Such~~ This term shall include any aggravation of such the disease without regard to the employment in which the disease was contracted."

Section 35. Section 25-5-116, Code of Alabama 1975, is amended to read as follows:

"§25-5-116.

"(a) ~~Where~~ If compensation is payable ~~under this article~~ for an

occupational disease other than pneumoconiosis or radiation, the only employer liable, if any, shall be the employer in whose employment the employee was last exposed to the hazards of said the disease. The employer who is liable shall not be entitled to contribution from any other employer of such the employee.

"(b) If compensation is payable for pneumoconiosis or radiation, the only employer liable, if any, shall be the employer in whose employment the employee was last exposed in each of at least 12 months, within a period of five years prior to the date of the injury, to the hazards of the disease."

Section 36. Section 25-5-117, Code of Alabama 1975, is amended to read as follows:

"§25-5-117.

"(a) In case of the contraction of an occupational disease, as defined in this article, or of injury or disability resulting therefrom, all claims a claim for compensation, as defined in Section 25-5-1, shall be forever barred, unless within one-year two years after the date of the injury, as hereinafter defined, the parties shall have agreed upon the compensation payable under this article, or unless within one-year two years after the date of the injury, one of the parties shall have filed a verified complaint as provided in section Section 25-5-88. In case of death, all claims for compensation the claim shall be forever barred, unless within two years after the death, if death results proximately from the occupational disease, as defined in this article, and occurs within three years of the date of the injury, as hereinafter defined, and unless within one year after such death the parties shall have agreed upon the compensation under this article, or unless within one-year two years after such death, one of the parties shall have filed a verified complaint as provided in section Section 25-5-88. Notwithstanding the foregoing, if upon the date of the death of the employee, the employee's claim is barred, any claim by or for his or her dependent shall likewise be barred. Where If, however, payments of compensation have been made in any case, said the limitations as to compensation shall not take effect until the expiration of one-year two years from the time of making the last payment. In case of physical or mental incapacity, other than the minority of the injured employee, or his or her dependents dependent, to perform or cause to be performed any act required within the time in this-section specified in this section, the period of limitation in any such case shall be extended to become effective one-year two years from the date when such the incapacity ceases. No agreement, express or implied, to shorten or to extend said the limitations shall be valid or

binding on either of the parties ~~when said if the~~ employment, at the time of ~~said the~~ exposure, is or was subject to ~~the provisions of this article. The date of the injury shall mean, for all purposes of this article, the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease.~~

"(b) For the purposes of occupational diseases other than pneumoconiosis or radiation, 'the date of the injury' shall mean the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease.

"(c) For purposes of pneumoconiosis and radiation, 'the date of the injury' shall mean the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease in each of at least 12 months, within a period of five years prior to the date of the injury."

Section 37. Section 25-5-120, Code of Alabama 1975, is amended to read as follows:

"§25-5-120.

"There shall ~~be no~~ not be a presumption that disablement or death from any cause or infirmity is the result of an occupational disease, nor that an occupational disease will result in disablement or death, and any person claiming compensation or other benefits under this article shall have the burden of establishing that he or she is entitled to such the benefits."

Section 38. Sections 25-5-140 through 25-5-180, Code of Alabama 1975, are repealed.

Section 39. Section 25-5-250, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 9.

"ALABAMA ~~WORKMEN'S~~ WORKERS' COMPENSATION
SELF-INSURERS

"GUARANTY ASSOCIATION.

"§25-5-250.

"There is created a nonprofit corporation to be known as the 'Alabama Workmen's Workers' Compensation Self-Insurers Guaranty Association, Incorporated,' hereinafter referred to as 'the association.' The purpose of the association shall be to create and fund an insolvency fund to assure payment of workmen's workers' compensation claims due from self-insuring employers who are members of the association and who become insolvent. The association shall have those powers granted or permitted nonprofit corporations, as provided in Title 10, as amended. In addition, the corporation shall have the power to borrow funds as necessary to carry out its purposes, and to purchase ~~such~~ insurance and reinsurance as is deemed necessary."

Section 40. Section 25-5-251, Code of Alabama 1975, is amended to read as follows:

"§25-5-251.

"(a) All employers who elect to be self-insurers for workmen's workers' compensation as provided in ~~section 25-5-8(b), as amended, Article 1~~, other than self-insurers which are governmental entities, or public utilities, shall be members of the association as a condition of their authority to self-insure. Membership shall be sufficient security for self-insurance.

"(b) Membership in the association shall cease when the employer terminates its self-insurance election. However, terminating members shall be and remain liable for the period of time in which they were members of the association and for any subsequent assessments made for that period.

"(c) Membership in the association may be terminated for ~~non-payment~~ nonpayment of assessments.

"(d) The association shall not issue stock and its members shall not, as such, be liable for its obligations."

Section 41. Section 25-5-254, Code of Alabama 1975, is amended to read as follows:

"§25-5-254.

"(a) To the extent necessary to secure funds for the payment of covered claims and costs of administration, the association may levy annual assessments on members of the association at a rate not to exceed ~~\$15.00~~ fifteen dollars (\$15) per ~~\$1,000.00~~ one thousand dollars

(\$1,000) of security amount established by the department for the respective members. Assessments shall be remitted to and administered by the association as provided in the bylaws. The rate of annual assessments against members of the association may vary by duration of membership so that the cumulative contribution rate of recently admitted members becomes the same as previously admitted members.

"(b) If, at any time, the insolvency fund is not sufficient to make the payments or reimbursements then owing, the association may levy a special assessment on members of the association at a rate not to exceed \$15.00 fifteen dollars (\$15) per \$1,000.00 one thousand dollars (\$1,000) of security amount established by the department for each member, but ~~such~~ any special assessment may not be levied more than once in each calendar year.

"(c) No state funds shall be allocated or paid to the association except those funds which may accrue to the association by or through assignments of rights of an insolvent employer. All monies in the fund shall be held in trust and shall not be money or property of the state or the participants in the association."

Section 42. Section 25-5-255, Code of Alabama 1975, is amended to read as follows:

"§25-5-255.

"Upon receipt of the funds assessed on members, the association may set aside funds for the administration of its affairs, and the balance of the funds shall be deposited to an insolvency fund under the following terms:

"~~(a)~~ (1) The fund is created for the purpose of assuring payment of ~~workmen's~~ workers' compensation claims against members of the association who become insolvent; but only those claims which accrue while the insolvent employer is a member of the association and accrue prior to the determination of insolvency or within 30 days thereafter. The obligation of the fund shall be limited to the obligation of the insolvent employer under the ~~Workmen's~~ Workers' Compensation Act, in an amount not to exceed 150 percent of the amount of security as determined by the department as of the last annual financial review. The fund shall have all defenses of and shall be subrogated to all rights of the insolvent employer. The fund shall not be liable for any penalties or interest assessed against the employer.

"~~(b)~~ (2) ~~It shall be the duty of the~~ The department of industrial

~~relations to~~ shall determine insolvency of any self-insurer employers, and to notify the association of its determination. Members and directors of the association are specifically forbidden to be given information on the financial condition of any members except the fact of determination of insolvency.

"~~(c)~~ (3) The director ~~of the department of industrial relations,~~ or his or her representative, ~~will~~ shall at all reasonable times have full and free access to the books and records of the association and may audit the association's financial affairs as he or she deems necessary. Should the director deem the balance in the insolvency fund insufficient to meet projected liabilities, he or she shall inform the board of directors, and after consultation with them, he or she shall set the amount which he or she deems sufficient and the board of directors shall levy assessments as provided herein to secure that amount.

"~~(d)~~ (4) The association shall be subrogated to all rights of any claimant whose claim it pays and shall have a claim against the member employer for all ~~such~~ claims and expenses of administration.

"~~(e)~~ (5) If at any time the insolvency fund is insufficient to pay all claims then owing, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as sufficient funds become available."

Section 43. (a) The director shall establish a workers' compensation specialist program to assist injured or disabled employees, persons claiming death benefits, employers, and other persons in protecting their rights and obtaining information available under workers' compensation laws.

(b) A workers' compensation specialist shall meet with or otherwise provide information to injured or disabled employees, investigate complaints and communicate with employers, insurance carriers and health care providers on behalf of injured or disabled employees. A workers' compensation specialist shall otherwise assist claimants, employers and other parties to enable them to protect their rights in the workers' compensation system. The director may designate employees as workers' compensation specialists and assign them as he or she deems appropriate.

(c) A workers' compensation specialist shall be a merit system employee, however, he or she need not be an attorney, but shall demonstrate familiarity with workers' compensation laws. Any person employed as a workers' compensation specialist shall be ineligible to

handle further cases that require his or her involvement during his or her employment as a workers' compensation specialist.

(d) A workers' compensation specialist shall not be an advocate for any person. A workers' compensation specialist shall not assist a claimant, employer or other person in any proceeding beyond the benefit review conference but may at all times provide appropriate information regarding this act and its rules and regulations.

(e) Each employer shall notify his or her employees of the workers' compensation specialist service in a manner prescribed by the director. The notice shall include the posting of a notice in one or more conspicuous places. The director shall also describe clearly the availability of the workers' compensation specialist on the first report of accident form required by this act. The workers' compensation specialist shall give each employee with a lost-time accident claim written notice of workers' compensation assistance available from the workers' compensation division. The notice shall include a toll-free phone number for employees to reach a workers' compensation specialist.

(f) Workers' compensation specialists shall conduct benefit review conferences. A benefit review conference shall be held between the parties involved in a dispute over any claim arising after January 1, 1993. A party may not proceed to a contested case hearing until after a benefit review conference has been held. The director shall institute and maintain an education and training program for workers' compensation specialists. The specialists shall be trained in the principles and procedures of dispute mediation and the director may consult or enter into contracts with the federal mediation and conciliation service or other appropriate organizations to accomplish this purpose.

(g) In conducting review conferences, the workers' compensation specialist shall:

(1) Mediate disputes between the parties and assist with the claim consistent with this act and the policies of the department.

(2) Inform all parties of their rights and responsibilities under this act, especially in cases in which either party is not represented by an attorney or other representative.

(3) Ensure that all documents and information relating to the employee's wages, medical condition, and any other information pertinent to the resolution of disputed issues are contained in the claim file at the conference, especially in cases in which the employee is not repre-

sented by an attorney or other representative.

(h) A workers' compensation specialist may reschedule a benefit review conference if the specialist determines that available information pertinent to the resolution of disputed issues is not produced at the benefit review conference.

(i) The workers' compensation specialist may not take testimony but may direct questions to an employee, an employer, or a representative of an insurance carrier to supplement or clarify information in a claim file.

(j) The workers' compensation specialist may not make a formal record.

Section 44. A benefit review conference is a nonadversarial, informal dispute resolution proceeding designed to:

(1) Explain, orally and in writing, the rights of the respective parties to a workers' compensation claim and the procedures necessary to protect those rights.

(2) Discuss the facts of the claim, review available information in order to evaluate the claim, and delineate the disputed issues.

(3) Mediate and resolve disputed issues by mutual agreement of the parties in accordance with this act and the policies of the department.

Section 45. (a) A dispute may be resolved either in whole or in part at the benefit review conference. If the conference results in the resolution of some of the disputed issues by mutual agreement or in a settlement, the workers' compensation specialist shall reduce the agreement or the settlement to writing. The workers' compensation specialist and each party or the designated representative of the party shall sign the agreement or settlement. A settlement is not effective unless it is approved by the court in accordance with this act and takes effect on the date approved.

(b) An agreement signed pursuant to this section shall be binding on all parties through the final conclusion of all matters relating to the claim, unless the court on a finding of fraud, newly discovered evidence, or other good cause, shall relieve all parties of the effect of the agreement.

(c) An agreement signed pursuant to this section shall be binding

on the claimant if represented by an attorney, to the same extent as on the insurance carrier or the employer. If the claimant is not represented by an attorney, the agreement shall remain binding on the claimant through the final conclusion of all matters relating to the claim while the claim is pending, unless the court for good cause relieves the claimant of the effect of the agreement.

(d) If the dispute is entirely resolved at the benefit review conference, the workers' compensation specialist shall prepare a written report that includes:

(1) A statement of each resolved issue.

(2) The specialist's recommendations regarding the payment or denial of benefits.

(3) A statement of the procedures required to request a contested case hearing and a complete explanation of the differences in that proceeding and the rights of the parties to subsequent review of the determinations made in those proceedings.

(e) If there is a dispute as to which of two or more insurance carriers is liable for compensation for one or more compensable injuries, the workers' compensation specialist may issue an interlocutory order directing each insurance carrier to pay a proportionate share of benefits due pending a final decision on liability. The proportionate share shall be determined by dividing the compensation due by the number of insurance carriers involved.

(f) On final determination of liability, any insurance carrier determined not to be liable for the payment of benefits is entitled to reimbursement from the share paid by the insurance carrier determined to be liable.

(g) The workers' compensation specialist shall file the signed agreement and the report with the court.

Section 46. A party to a claim for which a benefit review conference was held and no resolution of the issues was reached or a party eligible to proceed directly to a contested case hearing as provided by this act is entitled to a contested case hearing.

Section 47. (a) The director shall adopt rules as necessary for the implementation and enforcement of this act. The director may prescribe rules and regulations for the purpose of conducting continuing

education seminars for all personnel associated with workers' compensation claims and to collect registration fees in order to cover the related expenditures. The director may adopt rules and regulations setting continuing education standards for workers' compensation claims personnel employed by insurance companies and self-insured employers and groups.

(b) The director shall file annually with the Governor and the presiding officer of each house of the Legislature a complete and detailed written report accounting for all funds received and disbursed during the preceding fiscal year. The annual report must be in the form and reported in the time provided by law.

(c) The director shall establish reasonable charges to recover expenses for services not required by law or rule provided to persons requesting same from the workers' compensation division.

(d) The director shall appoint advisory committees on workers' compensation matters deemed necessary. The director shall also appoint a hospital advisory committee consisting of three administrators who are members of the Alabama Hospital Association, an advisory committee consisting of three chiropractors who are members in good standing with the Alabama State Chiropractic Association, and who shall be selected by the director from nominations submitted by the Alabama State Chiropractic Association, and an advisory committee consisting of three pharmacists who are members in good standing with the Alabama Pharmaceutical Association who shall be selected by the director from nominations submitted by the Alabama Pharmaceutical Association, and also an advisory committee consisting of three optometrists who are members in good standing with the Alabama Optometric Association who shall be selected by the director from nominations submitted by the Alabama Optometric Association. These committees shall guide the director and make recommendations to ascertain the prevailing rate of reimbursement or payment of medical costs in the State of Alabama. These committees shall also make recommendations with regard to the implementation of all other rules and regulations, including but not limited to, utilization review by like peers. These committees shall also advise and guide the director in determining all other rules and regulations required to accomplish the intent of the Legislature in assuring the quality of medical care and achieving medical cost control.

The director shall also appoint a vocational rehabilitation advisory committee consisting of at least five professional licensed rehabilitation specialists. These rehabilitation specialists shall be selected by the director from nominations from the rehabilitation associations in the state

of Alabama, including but not limited to, the Alabama Physical Therapy Association. This committee shall guide the director and make recommendations to ascertain the prevailing rate of reimbursement or payment of rehabilitation costs in the State of Alabama. This committee shall also make recommendations with regard to the implementation of all other rules and regulations, including but not limited to, utilization review, and with regard to rehabilitation policies as provided by this act. These committees shall also advise and guide the director in determining all other rules and regulations required to accomplish the intent of the Legislature in assuring the quality of rehabilitation care and achieving rehabilitation cost control.

The director shall appoint an advisory committee consisting of attorneys who are members in good standing of the Alabama State Bar. This committee shall guide and assist the director in creating and promulgating rules and regulations for the efficient administration of the contested case hearings and other related matters within this act.

Members of the advisory committees shall receive State of Alabama per diem and mileage expense.

(e) It is the intent of the Legislature that final reimbursements related to workers' compensation claims be commensurate and in line with the prevailing rate of reimbursement or payment in the State of Alabama, or as otherwise provided in this act. The director is authorized and charged with the responsibility to conduct field audits as necessary to assist the private sector to gain compliance with the legislative intent. It will be the responsibility of the department to develop administrative rules to facilitate implementation and continuity of the legislative intent. The director is not empowered to establish the prevailing rate of payment or reimbursement, but may collect or have collected data which is construed to be statistically significant as defined by an independent, disinterested actuarial consultant. By definition, the prevailing rate of payment or reimbursement is self-defining and self-setting which shall be updated not less than quarterly and not more than monthly as determined by the director.

(f) Insurance carriers and self-insurers, individual and group, are responsible for making appropriate payment for services provided under this act. Unless otherwise provided in this act, in no event shall any insurance carrier or self-insurer, individual, or group pay more than the applicable prevailing rate of reimbursement or maximum fee for medical service provided under this act. To ensure compliance of providers, insurance carriers, and self-insurers with this act, the director may provide by rule for the review and audit of insurance carriers and

self-insurers, individual and group, of payments for medical services provided under this act. The director may cause to be maintained a statewide data base from insurance carriers and self-insurers, individual and group, on medical charges, actual payments, treatment patterns, and adjudication methods for use in administering this act. This data base will be maintained by an independent entity, not governmental, which is not responsible for the payment of any medical or hospital claims.

(g) A person who performs services for the director pertaining to the advisory committee's policies is immune from liability. Immunity from liability under this section does not apply to a person providing medical treatment to an injured employee.

Section 48. (a) All letters, reports, communications, and other matters, written or oral, from employer or employee to each other or to the director, or any of his or her agents, representatives, or employees, or to any official or board functioning under this act, which shall have been written, sent, delivered, or made in connection with the requirements and administration of this act, shall be absolutely privileged. Information thus obtained shall be held confidential, except to the extent necessary for the proper presentation of the contest of a claim, and not be published or open to public inspection in any manner. Any person violating this section shall be fined not less than twenty dollars (\$20) nor more than two hundred dollars (\$200), or imprisoned for not longer than 30 days, or both.

(b) The director may make summaries, compilations, photographs, duplications, or reproductions of any records as he or she may deem advisable for the effective and economical preservation of the information contained therein, and the documentation, duly authenticated, shall be admissible in any proceeding under this act if the original record or records would have been admissible therein.

(c) The director may upon specific request therefor, furnish to any public agency a workers' compensation record in his or her custody, provided the agency makes payment of a reasonable cost therefor.

(d) At his or her discretion, the director may release information to institutions of higher education, or a federal government corporation upon payment of a reasonable cost therefor, for the purpose of making economic analyses. The institution or corporation must agree in writing that information so obtained shall not be published or released by it to any person or persons in a manner to permit the identification of any specific individual or employing unit.

(e) The director may afford reasonable cooperation with any

agency of the United States or any state agency charged with the administration of any workers' compensation laws.

(f) The director may upon specific request release a workers' compensation record or information therein to any public or law enforcement official necessary for the performance of his or her official duties upon payment of a reasonable cost therefor in accordance with any regulations as the director prescribes.

(g) Whoever willfully makes a false statement or representation to obtain any information under this section, either for himself or herself or for any other person, or uses any information for any purpose other than in the performance of his or her official duties or in any other manner misuses the information, shall be guilty of a misdemeanor and upon conviction therefor, shall be punished by a fine of not less than two hundred dollars (\$200) nor more than one thousand dollars (\$1,000), or by imprisonment for not less than three nor more than 12 months, or by both fine and imprisonment.

"WORKERS' COMPENSATION MEDICAL SERVICES BOARD"

Section 49. For the purposes of this new article the following words and phrases have the respective meanings ascribed by this section:

(1) **BOARD.** The Workers' Compensation Medical Services Board.

(2) **MEDICAL or MEDICAL SERVICES.** Any and all medical or surgical services provided by physicians under this article.

(3) **PHYSICIAN.** A doctor of medicine or doctor of osteopathy licensed to practice medicine.

Section 50. There is created and established a Workers' Compensation Medical Services Board which shall be composed of five physicians licensed to practice medicine in the State of Alabama who shall be appointed by the Director of the Department of Industrial Relations. The initial board shall be appointed from among a list of 10 nominees submitted to the director by the Medical Association of the State of Alabama.

Members of the board shall serve terms of five years. In order that the appointments be staggered, one member shall serve an initial term of six years; one member shall serve an initial term of two years; one member shall serve an initial term of three years; one member shall

serve an initial term of four years; and the remaining member shall serve an initial term of five years. Thereafter their successors shall be appointed by the director from among a list of three nominees submitted by the Medical Association of the State of Alabama to serve full five-year terms. A member of the board shall continue to serve beyond the expiration of his or her term of office until his or her successor is legally appointed. Members of the Workers' Compensation Medical Services Board shall be eligible to serve two five-year terms of office in addition to an initial or unexpired term of less than three years, but shall not serve thereafter. Members of the board shall be entitled to receive per diem at the rate of four hundred dollars (\$400) per day for each day or portion thereof spent in the performance of the duties of their office and in addition, shall be reimbursed for expenses of travel in the same manner as employees of the State of Alabama.

The Workers' Compensation Medical Services Board shall function as a part of the State Department of Industrial Relations and shall have the authority, duties, and responsibilities as prescribed in this act. The board shall meet annually at a time and place designated by the chair, and may meet more frequently at the call of the chair or upon written request of the director. The board shall elect one of its members as chair and the chair shall serve a term of one year. The board may adopt rules governing its own proceedings. The department shall provide the board with necessary meeting and office space, secretarial and clerical support, reimbursement for travel expenses, per diem as specified in this act, and additional funding as required by the board for the employment of consultants, attorneys, and other professional staff necessary to accomplish the purposes and objectives stated in this act, provided the department has available resources.

Section 51. The board shall exercise general supervision and superintendence in all matters related to the provision of medical services provided by physicians as defined in this new article rendered to workers under the provisions of this new article. The duties of the board shall include, but are not limited to, the following:

- (1) Study, develop, and implement any necessary and reasonable guidelines for medical services and physician care provided by physicians as defined in this new article, and medical necessity determinations for medical services under this new article.

- (2) Study, design, and implement standardized uniform claims processing forms and forms for the reporting of medical information to employers and insurance companies by physicians as defined in this new article.

(3) Study, devise, create, and implement a dispute resolution system for medical services provided by physicians as defined in this new article. The decision of the board shall constitute final administrative action, subject only to judicial review under the Alabama Administrative Procedure Act.

(4) Study, devise, and develop a uniform system of utilization review and quality assurance which shall be applicable to all medical services provided by physicians as defined in this new article and provided to beneficiaries herein.

(5) Address and give consideration to those matters referred to it by the director.

(6) The board shall contract with physicians, health care providers, professional associations of physicians and health-related organizations to provide to the board consultation, and research and development expertise in discharging its duties and responsibilities under this new article. Any contract entered into by the board shall be with the approval of the director and shall be paid from the Workers' Compensation Administrative Trust Fund.

(7) The board may create and establish, by regulations promulgated by the Department of Industrial Relations, regional committees of physicians to be appointed by the board to perform any duties and responsibilities specified by the board in programs established for the delivery of medical services under this act. Members of the regional committees shall be physicians as defined in this new article and shall serve at the pleasure of the board. Physicians as defined in this new article serving as members of the regional committees as constituted under this section shall be granted the same immunities as provided to members of the board under this act and existing state law.

(8) Implementation of this section shall be governed and subject to the Alabama Administrative Procedure Act. Rules and regulations relating to the duties and authority of the board, enumerated herein, may be promulgated only with the consent of both the director and the board. If the director and the board cannot agree on rules and regulations relating to the duties and authority of the board within six months from the effective date of this article, the director shall establish interim rules and regulations, including, but not limited to, utilization review, which shall remain in effect until the board and the director consent to other rules and regulations.

Section 52. Within six months from the effective date of this

new article, the board shall submit to the Governor a schedule of maximum fees for medical services covered by this new article. This schedule of maximum fees shall be established by the board at a level not to exceed by more than 10 percent the preferred provider reimbursement customarily paid by the largest health care service plan incorporated pursuant to Section 10-4-100 to 10-4-115, inclusive, Code of Alabama 1975.

The entire initial schedule of maximum fees, but not individual or separate portions thereof, established by the board shall be subject to acceptance or rejection by the Governor of the State of Alabama. If rejected by the Governor, the schedule of maximum fees shall be referred back to the board for further consideration and resubmission to the Governor for acceptance. The schedule of maximum fees and any additions, deletions, corrections, or changes thereto shall not be considered a rule or regulation requiring publication under the Alabama Administrative Procedure Act. It is the express legislative intent that the Workers' Compensation Medical Services Board shall have the discretion to establish a system of maximum fees under this section for physician services to employees covered by the Workers' Compensation Act and that the schedule of fees shall replace and supplant traditional competitive market mechanisms in the interest of obtaining quality physician services in a cost effective manner. The board shall annually adjust the schedule of fees established pursuant to this section by increases which shall be no more than the annual increase in the cost of living as reflected by the U. S. Department of Labor consumer price index. The board may, from time to time, add to or adjust the schedule of fees in response to changes in technology and medical practice, subject only to the right of the Governor to accept or reject the addition or adjustment made by the board, and to refer back to the board for further consideration any additions or adjustments which he or she may reject. The liability of the employer for the payment of services rendered by physicians shall not exceed those maximum fees established by the board and approved by the Governor. The employees shall not be liable to the physician for any amount in excess of the schedule of maximum fees established by the board and approved by the Governor.

Section 53. The Workers' Compensation Medical Services Board, the individual members thereof, the agents, servants, employees, consultants, or attorneys of the board, and any person, firm, or corporation contracting with the board for the specific purpose of carrying out the duties, obligations, and responsibilities of the board under this act, shall each be immune from civil liability against the claims of any and all individuals, firms, corporations, institutions, or other entities for any claims of any nature whatsoever arising out of or related to the deci-

sions, opinions, deliberations, reports, or publications which are made, rendered, or entered by the board or the individual members of the board or the agents, servants, employees, consultants, or attorneys of the board or any person, firm, or corporation contracting with the board which decisions, opinions, deliberations, reports, or publications were made in good faith, without malice, and predicated upon information which was then available to the board.

Section 54. (a) There is established in the State Treasury a fund entitled the Workers' Compensation Administrative Trust Fund, into which shall be deposited certain assessments provided under Chapter 5 (commencing with Section 25-5-1) of Title 25 of the Code of Alabama 1975, collected by the department. The fund shall constitute a separate fund to be disbursed by the State Comptroller on order of the director. All expenses incurred by the department under the Workers' Compensation Act, including the salaries of all employees, travel cost, and any other cost of administration and enforcement as may become necessary, either within or without the state, shall be paid out of the separate fund in the State Treasury upon warrants of the State Comptroller drawn upon the State Treasury from time to time when vouchers therefor are exhibited and approved by the director. The State Treasurer shall pay monies out of the separate fund herein established upon the order of the director. The total expense for every purpose incurred shall not exceed the total assessment collected and paid into the State Treasury; and the total expense for every purpose incurred in implementing this act shall not exceed the amount appropriated by the Legislature in the general fund appropriation act. No funds shall be withdrawn or expended except those budgeted and allocated in accordance with Article 4 (commencing with Section 41-4-80) of Chapter 4 of Title 41 of the Code of Alabama 1975, and all monies remaining unexpended in the separate fund at the end of the fiscal year shall remain in the State Treasury to be expended as herein provided. Included in the above budget shall be an amount of money allocated for the specific and exclusive purpose of paying only benefits to the claimants who have qualified to receive benefits from the Second Injury Trust Fund on the effective date of this act. Payments of these benefits shall be made weekly. The director shall each week make requisitions to the State Comptroller who shall draw warrants on the State Treasurer for the weekly compensation amount. The warrants shall be drawn only if there are sufficient monies in the treasury for immediate payment. Claims shall take priority in an ascending numerical order according to the time of the accident, and the time shown in the settlement between the employer and employee shall be prima facie evidence of the time of the accident. No funds allocated for payment of benefits from this fund shall be used to pay lump sum attorney's fees. Payment shall resume on the end of the first week of the fiscal year in

which the Legislature approves the requested budget for the Workers' Compensation Administrative Trust Fund. The claimants who were receiving weekly benefits from the second injury trust fund as of August 31, 1991, will be paid all weekly benefits due to date and continued for duration of claim. Those amounts will be paid from the monies as allocated.

(b) The State Treasurer shall determine whether the moneys in the trust fund shall be kept in cash or invested. The moneys in the fund may be invested by the State Treasurer and all moneys and interest remaining unexpended in the separate fund provided at the end of the fiscal year shall remain in the State Treasury to be expended as herein provided.

(c) The director is designated as trustee of the fund and the State Treasurer is designated as custodian of the fund, and shall furnish bonds in amounts as shall be deemed appropriate. The cost of bonds for the trustee, custodian and other employees or officials required to post bond in connection with the program shall be paid out of the fund.

(d) Each carrier, self-insured employer, and group fund shall be assessed two hundred fifty dollars (\$250). The proceeds of the assessment shall be deducted from the estimate of total expenses and the remaining expenses of administration shall be prorated among the carriers writing compensation insurance in the state, self-insured employers, and group funds. The gross claims for compensation and medical payments paid by the carriers, self-insured employers, and group funds are the basis for computing the amount to be assessed, in the proportion that the total gross claims for compensation and medical payments paid by the carrier, self-insured employer, or group fund during the preceding calendar year bore to the total gross claims for compensation and medical payments paid by all carriers, self-insured employers, and group funds during that period. The total assessment shall not exceed seven million dollars (\$7,000,000) per year. This amount may be assessed as a specific amount or as a percentage of gross claims for compensation and medical payments paid by the carriers, self-insured employers, and group funds as the director may direct, and shall be in an amount as is reasonably necessary to defray the necessary administration expense.

(e) The department shall provide by regulation for the collection of the amounts assessed against each carrier, self-insured employer, and group fund. The amounts shall be paid within 30 days from the date that notice is served upon the carrier, self-insured employer, and group fund. If the amounts are not paid within the period, there may be

assessed, for each 30 days that the amount so assessed remains unpaid, a civil penalty equal to 10 percent of the amount so unpaid, which shall be collected at the same time and as a part of the amount assessed.

(f) If any insurance carrier, self-insured employer, or group fund fails to pay the amounts assessed against it under this section within 60 days from the time the notice is served, the department may suspend or revoke the authorization to the self-insurer and request that the Department of Insurance revoke the authority of the insurance company to insure workers' compensation.

(g) All amounts collected under this section shall be paid into the Workers' Compensation Administrative Trust Fund.

(h) The department may require from each carrier, self-insured employer, and group fund reports with respect to all payments of compensation and medical payments by the carriers, self-insured employers, or group funds during each calendar year, and may determine the amounts paid by each carrier, self-insured employer, and group fund and the amounts paid by all carriers, self-insured employers, and group funds during the period.

(i) On or before the first day of March of each year, every carrier, self-insured employer, and group fund shall file with the department a statement on the prescribed forms showing the gross claims for compensation and medical payments paid by the carrier, self-insured employer, or group fund during the preceding one year period ending on the 31st day of December. Any carrier, self-insured employer, or group fund which neglects to make and file its annual written statement within the time provided in this manner shall pay to the Workers' Compensation Administrative Trust Fund a penalty prescribed by rule of the director for each day's neglect.

(j) Any other fees or fines collected under this chapter shall be deposited in the Workers' Compensation Administrative Trust Fund.

Section 55. (a) Within 60 days after this act becomes law, the effective dates of other sections notwithstanding, the director shall assess each carrier, self-insured employer, and group fund under Article 1 their pro rata share up to five million three hundred thousand dollars (\$5,300,000) according to the method set out in Section 63(d). Of this amount eight hundred thousand dollars (\$800,000) will be allocated to pay weekly benefits to the claimants of the second injury trust fund until an appropriate budget is approved in accordance with Chapter 4 of Title 41 of the Code of Alabama 1975. The assessment shall be deposited

into the Workers' Compensation Administrative Trust Fund to be disbursed by the State Comptroller on order of the director of industrial relations.

(b) The assessment is appropriated and made available for the initial start-up costs and expenses of the workers' compensation program to fund activities not included in the general fund appropriation for fiscal year 1991-1992 and fiscal year 1992-1993, which are peculiar to this act.

(c) Any unexpended balance remaining at the end of the fiscal year will be credited to the insurance carriers and self-insured employers at the end of the next fiscal year.

Section 56. All laws or parts of laws which conflict with this act are repealed.

Section 57. The term "Alabama Workmen's Compensation Law," as provided for in the Code of Alabama 1975, shall henceforth be known as "Alabama Workers' Compensation Law."

Section 58. (a) Section 25(h) of this act shall be effective immediately, however, it shall not be implemented until 30 days after the ascertainment and announcement of the prevailing rates of reimbursements or payments for medical costs, but in no event shall be implemented until the expiration of 60 days after the effective date of this act.

(b) All other sections of this act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Senator Floyd offered the following substitute for the deGraffenried substitute for the Bill, HB 1, as amended, to-wit:

SUBSTITUTE FOR SUBSTITUTE FOR HB 1, AS AMENDED

A BILL TO BE ENTITLED AN ACT

To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to repeal Sections 25-5-70 to 25-5-75, inclusive, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975; to limit payment of health

providers to not more than the prevailing rates of reimbursement for services provided, as specified; to specifically limit claims for mental disorders or injuries to disorders or injuries produced or proximately caused by some physical injury to the body; to specify the benefits for volunteer fire fighters or rescue squad members; to abolish the second injury trust fund; to extend from one to two years the statute of limitations for compensation for occupational diseases; to establish a workplace safety program for employers; to create a Medical Services Board in the Department of Industrial Relations which will provide for a maximum fee schedule; and to provide for civil immunity for members and employees of the board and to provide for certain implementation dates for various sections of the act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. It is the intent of the Legislature that the workers' compensation division of the Department of Industrial Relations shall administer the Alabama workers' compensation law in order to provide a workers' benefit system to insure the quick and efficient payment of compensation and medical benefits to injured and disabled workers at a reasonable cost to the employers who are subject to the Alabama Workers' Compensation Law. It is the specific intent of the Legislature that workers' compensation benefit claim cases be decided on their merits. The Alabama Workers' Compensation Act is remedial in nature and should be liberally construed to effectuate the intended beneficial purposes.

It is also the intent of the Legislature in adopting this workers' compensation scheme to address difficulties in the current scheme that are producing a debilitating and adverse effect on the state's ability to retain existing industry and attract new industry. The Legislature finds that the current Workmen's Compensation Act of Alabama and other means of compensation or remedy for injury in the workplace has unduly increased cost to employers in the state, driven away jobs, and produced no concomitant benefit. There is a total absence of any reliable evidence that the current act has resulted in fewer injuries on the job, and a considerable body of evidence that any added benefit to the worker is significantly offset by the resulting reduction in job opportunities.

The Legislature has reviewed substantial evidence related to various types of cumulative physical stress disorders, cumulative trauma disorders and certain "natural aging" disorders, including carpal tunnel syndrome, repetitive motion syndrome, and even back and neck infirmities that result from gradual deterioration or the natural process of

aging. The Legislature has concluded that it is extremely difficult for the adjudicator of fact to determine whether these disorders are related to work or whether they result from some congenital defect, aging processes, or simply the routine activities of daily living.

These claims also account for a substantial percentage of the workers' compensation claims in this state and are one of the contributing causes of the current workers' compensation crisis facing this state.

It is the finding and expressed intent of the Legislature that the existence of a fair and affordable workers' compensation system within the State of Alabama materially contributes to the economic growth and prosperity of the state and all its citizens. It is the further finding of the Legislature that the provision of quality medical services to employees injured in the workplace at a reasonable and fair cost to employers is an important part of a workers' compensation system. The establishment of a Workers' Compensation Medical Services Board as constituted in this act is considered by the Legislature to be the most appropriate mechanism for insuring that high quality medical services are provided in a cost-effective manner to employees injured in the workplace.

Section 2. Section 25-5-1, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 1.

"GENERAL PROVISIONS.

"§25-5-1.

"Throughout this chapter, the following words and phrases as used therein shall be considered to have the following meanings, respectively, unless the context shall clearly indicate a different meaning in the connection used:

"(1) COMPENSATION. ~~Such term indicates the~~ The money benefits to be paid on account of injury or death, as provided in Articles 3 and 4. Strictly speaking, the benefit ~~The recovery which an employee may receive by action at law under article~~ Article 2 of this chapter is damages, termed 'recovery of civil damages,' and this is indicated as provided for in section Sections 25-5-31 and 25-5-34. To avoid confusion, the word "compensation" has been used in this chapter, but it should be understood that under article 2 the compensation by way of damages is determined by a civil action. Such term 'Compensation'

does not include medical and surgical treatment and attention, medicine, medical and surgical supplies, and crutches and apparatus furnished an employee on account of an injury.

"(2) CHILD or CHILDREN. ~~Such~~ The terms include posthumous children and all other children entitled by law to inherit as children of the deceased; stepchildren who were members of the family of the deceased, at the time of the accident, and were dependent upon him or her for support; a grandchild of the deceased employee, whose father is dead or is an invalid, and who was supported by and a member of the family of ~~such~~ the deceased grandparent at the time of the accident.

"(3) DEPENDENT CHILD or ORPHAN. An unmarried child under the age of 18 years or one over that age who is physically or mentally incapacitated from earning.

"(4) EMPLOYER. Every person ~~not excluded by section 25-5-50~~ who employs another to perform a service for hire and pays wages directly to ~~such~~ the person. ~~Such~~ The term shall include a service company for a self-insurer or any person, corporation, copartnership, or association, or group thereof, and shall, if the employer is insured, include his or her insurer, such the insurer being entitled to the employer's rights, immunities, and remedies under this chapter, as far as applicable, and shall not include one who regularly employs a number less than three in any business; provided, however, that the inclusion of an employer's insurer within such the term shall not provide ~~such the~~ insurer with immunity from liability to an injured employee, or his or her dependents dependent in the case of his death to whom the insurer would otherwise be subject to liability under the provision of section Section 25-5-11. Notwithstanding any section of articles 2 and 3 the provisions of this chapter, in no event shall a common carrier by motor vehicle operating pursuant to a certificate of public convenience and necessity be deemed the 'employer' of a leased-operator or owner-operator of a motor vehicle or vehicles under contract to such the a common carrier.

~~"(5) PHYSICIAN. Such term shall include 'surgeon,' and, in either case, shall mean one authorized by law to practice his profession within one of the United States and in good standing in his profession at the time.~~

~~"(6) (5) EMPLOYEE, WORKER, WORKMEN and WORKMAN.~~ EMPLOYEE or WORKER. Such The terms are used interchangeably, and have the same meaning throughout this chapter,

and shall be construed to mean the same. ~~Such~~ The terms include the plural and all ages and both sexes. ~~Such~~ The terms include every person ~~not excluded by section 25-5-50,~~ in the service of another under any contract of hire, express or implied, oral or written, including aliens and also including minors who are legally permitted to work under the laws of this state, and also including all employees of Tannehill furnace and foundry commission. Any reference in this chapter to a ~~'workman'~~ 'worker' or 'employee' shall, ~~where if the workman~~ where if the worker or employee is dead, include his or her ~~dependents~~ dependent, as defined in this chapter, if the context so requires.

~~"(7) (6)~~ WAGES or WEEKLY WAGES. ~~Such~~ The terms shall in all cases, ~~unless the context clearly indicates a different meaning,~~ be construed to mean 'average weekly earnings.' Average weekly earnings shall not include fringe benefits if and only if the employer continues the benefits during the period of time for which compensation is paid. 'Fringe benefits' are those benefits that the employer regularly furnishes an employee as a part of his or her compensation for the performance of the employee's duties, but for items furnished by the employer, in part for the purpose of assisting the employee in the performance of his or her duties, and in part for personal use, only the value of the part furnished or approved for personal as opposed to business use is to be considered a fringe benefit. Every person, not excluded by section 25-5-50, in the service of another under any contract of hire, express or implied, oral or written, includes aliens and also includes minors who are legally permitted to work under the laws of the state.

~~"(8) (7)~~ ACCIDENT. ~~Such~~ The term, as used in the phrases 'personal injuries due to accident' or 'injuries or death caused by accident' shall, ~~unless a different meaning is clearly indicated by the context,~~ be construed to mean an unexpected or unforeseen event, happening suddenly and violently, with or without human fault, and producing at the time injury to the physical structure of the body or damage to an artificial member of the body by accidental means.

~~"(9) INJURIES BY AN ACCIDENT ARISING OUT OF AND IN THE COURSE OF HIS EMPLOYMENT.~~ Without otherwise affecting ~~either the meaning or interpretation of such clause, such clause does not cover workmen except while engaged in or about the premises where their services are being performed or where their service requires their presence as a part of such service at the time of the accident and during the hours of service as such workmen, and shall not include any injury caused by the act of a third person or fellow employee intended to injure the employee because of reasons personal to him and not directed against him as an employee or because of his employment, and it shall not~~

~~include a disease unless the disease results proximately from the accident.~~

"(8) INJURY. 'Injury and personal injury' shall mean only injury by accident arising out of and in the course of the employment, and shall not include a disease in any form, except for an occupational disease or where it results naturally and unavoidably from the accident. Injury shall include breakage or damage to eyeglasses, hearing aids, dentures, or other prosthetic devices which function as part of the body, when injury to them is incidental to an on-the-job injury to the body. Injury does not include an injury caused by the act of a third person or fellow employee intended to injure the employee because of reasons personal to him or her and not directed against him or her as an employee or because of his or her employment. Injury does not include a mental disorder or mental injury that has neither been produced nor been proximately caused by some physical injury to the body.

"(9) REPETITIVE MOTION INJURIES. For a repetitive motion injury to 'arise out of the employment,' the employment must have subjected the injured individual to a risk of that injury which is materially in excess of the risk of that injury to which persons not so employed are subjected.

"(10) IN THE COURSE OF THE EMPLOYMENT. An accident occurs in the course of the employment when it occurs while the employee is engaged in the performance of his or her duties, or activities incidental thereto, either on the business premises or at a place where the employee reasonably may be engaged in his or her duties.

~~"(10)~~ (11) SINGULAR AND PLURAL. Wherever the singular is used, the plural shall be included.

~~"(11)~~ (12) GENDER. Where the masculine gender is used, the feminine and neuter shall be included.

~~"(12)~~ (13) LOSS OF HAND or FOOT. ~~Amputations~~ Amputation between the elbow and wrist shall be considered as the equivalent to the loss of a hand, and the amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot.

"(14) PREVAILING. As used herein for the purposes of this chapter, the term 'prevailing' shall mean most commonly occurring, excluding federal and state medical reimbursements, and shall not be construed as an average.

"(15) PROVIDERS. As used herein for the purposes of this

chapter, 'providers' includes physicians and also includes a hospital, medical clinic, pharmacist, pharmaceutical supply company, rehabilitation service, or other person or entity providing treatment, service, or equipment or person or entity providing facilities at which the employee receives treatment.

Provided, however, rehabilitation service or other person or entity providing treatment, service, or equipment shall not include rehabilitation nurses, case management workers, or medical management workers employed by or whose services are contracted for by any employer, insurer, self-insured association, or self-insured trust fund and whose primary duties are case management, medical management, and liaison between the employer/insurer and the injured worker and/or medical providers and the injured worker. The cost of persons who serve in the position of rehabilitation nurses, care management workers, or medical management workers shall not be included in any expenses of an employer, insurer, self-insured association, or self-insured trust fund upon which the insurance commissioner bases rate schedules for workers' compensation coverage.

"(16) MEDICAL. As used herein for the purposes of this chapter, 'medical' includes all services, treatment, or equipment provided by all providers.

"(17) PARTICIPATING AND NONPARTICIPATING HOSPITALS. As used herein for the purposes of this chapter, the term 'participating hospital' shall mean those hospitals that have a negotiated rate of reimbursement or payment with the Department of Industrial Relations. 'Nonparticipating hospitals' shall mean those hospitals that have not negotiated a rate of reimbursement or payment with the Department of Industrial Relations.

"(18) HOSPITAL. As used herein for the purposes of this chapter, the term 'hospital' shall include a hospital, ambulatory surgical center, and outpatient rehabilitation centers licensed by the state of Alabama.

~~"(13) (19) THE COURT. Such term shall mean the~~ The circuit court ~~which that~~ would have jurisdiction in an ordinary civil action involving a claim for the injuries or death in question, and 'the judge' ~~shall mean means~~ a judge of said that court."

Section 3. Section 25-5-2, Code of Alabama 1975, is amended to read as follows:

"§25-5-2.

"The Director of the Department of Industrial Relations of the state of Alabama shall gather statistics on accidents and their causes and shall generally be responsible for the efficient administration of this chapter ~~and, to~~. To this end, ~~he or she shall have full power to make or cause to be made~~ the necessary investigations and examinations in connection with the settlement of all ~~workmen's~~ workers' compensation claims. As used in this chapter, the word 'director' shall ~~be construed to mean the Director of the 'Department of Industrial Relations' or the director thereof unless a contrary meaning plainly appears.~~"

Section 4. Section 25-5-3, Code of Alabama 1975, is amended to read as follows:

"§25-5-3.

~~"The director of the department of industrial relations shall prepare and cause to be printed, at the expense of the state, and to be paid for as other supplies are paid for, and upon request furnish free of charge sample copies to any employer or employee such the blank forms and literature as he or she shall deem requisite to facilitate or promote the efficient administration of articles~~ Articles 2 and 3 2, 3, and 4 of this chapter, other than the papers relating to court proceedings. The director shall adopt and cause a standardized claim reimbursement form to be used by providers. The director shall also assist providers in developing a system for electronic reporting, billing, and payment in workers' compensation cases. Standardized claim reimbursement forms for physicians licensed to practice medicine shall be approved by the director and the Workers' Compensation Medical Services Board.

Section 5. Section 25-5-4, Code of Alabama 1975, is amended to read as follows:

"§25-5-4.

~~"Every~~ An employer shall keep a record of all injuries, fatal or otherwise, received by his or her employees arising out of and in the course of their employment and for which compensation is claimed or paid, received by his employees in the course of their employment. Within 15 days after the occurrence of ~~such the~~ injuries and knowledge thereof by the employer, a report of the same shall be made to the department ~~of industrial relations~~ on forms approved by ~~said the~~ department. At the discretion of the director, reports received under ~~the provisions of this chapter~~ may be destroyed after 12 years."

Section 6. Section 25-5-8, Code of Alabama 1975, is amended to read as follows:

"§25-5-8.

"(a) Option to insure risks. ~~Every~~ An employer ~~who accepts~~ subject to ~~the provisions of~~ this chapter may secure the payment of compensation under this chapter by insuring and keeping insured his or her liability in some insurance corporation, association, organization, ~~or~~ insurance association, ~~or~~ corporation, or association formed of employers and ~~workmen~~ workers or formed by a group of employers to insure the risks under this chapter, operating by mutual assessment or other plans or otherwise; ~~provided, that such.~~ Notwithstanding the foregoing, the insurance association, organization, or corporation shall have first had its contract and plan of business approved in writing by the director Commissioner of the Department of Insurance of Alabama and have been authorized by the said Department of Insurance to transact the business of workmen's workers' compensation insurance in this state and under such the charter or plan.

"(b) Option to operate as self-insurer. ~~Every~~ An employer subject to ~~the provisions of~~ this chapter who elects not to insure his or her liability thereunder shall furnish satisfactory proof to the director of ~~industrial relations~~ of his or her financial ability to pay directly such compensation in the amount and manner and when due as provided by this chapter. ~~whereupon~~ Whereupon, the director shall authorize ~~said~~ the employer to operate as a self-insurer. ~~; provided, however, that the director may require such employer to post a surety bond or to deposit in a depository designated by the director money or securities of a kind and in an amount reasonably determined by the director and subject to such reasonable conditions as the director may prescribe, which shall include authorization to the director in case of default to sell any such securities to pay benefits due or to file a civil action upon such bond to procure payment of benefits under this chapter.~~ The director may also prescribe other reasonable rules and regulations for the purpose of protecting the injured employee or the employee's dependents and set reasonable fees to accompany self-insurance applications.

"(c) Evidence of compliance. ~~Every~~ An employer subject to ~~the provisions of~~ this chapter shall file with the director, on a form prescribed by the director, annually or as often as the director in his or her discretion deems necessary, evidence of compliance with the requirements of this section. In cases where insurance is taken with a carrier duly authorized to write such insurance in this state, notice of insurance coverage filed by the carrier shall be sufficient evidence of compliance by the insured.

"(d) Certificate of compliance.

"(1) **ISSUANCE, REVOCATION, ETC.** ~~Whenever an employer has complied~~ Upon the employer's complying with the provisions of subsection (b) of this section relating to self-insurance, the director shall issue to ~~such~~ the employer a certificate, which shall remain in force for a period fixed by the director. ~~The director may, upon~~ Upon 60 days notice and hearing to the employer, ~~the director may,~~ for financial reasons, for failure of the employer to faithfully discharge his or her obligations according to the agreements contained in his or her application for self-insurance, or for the violation of any reasonable rule or regulation prescribed by the director, revoke the self-insurance certificate, in which case the employer shall immediately insure his or her liability. Certificates of self-insurance issued prior to September 17, 1973, shall continue in force but shall become subject to revocation as provided in this subsection. At any time after such the revocation, the director may grant a new certificate to the employer upon his application by the employer.

"(2) **APPEALS.** An appeal may be taken from any ruling of the director under subsection (b) of this section and or under this subsection to the circuit court of any county wherein the employer does business. Trial in ~~such the~~ the court shall be de novo and without a jury ~~unless the employer demands a jury trial at the time of taking such appeal; provided, however, that the.~~ The taking of any such an appeal shall not stay the ruling or order appealed from unless good and sufficient bond approved by the judge of the court to which the appeal is taken shall be filed with the clerk of said the court, conditioned on complying with such order as may be legally made effective and further conditioned upon payment by the employer of all final judgments for compensation that may be rendered against him the employer pending the disposition of such the appeal.

"(e) **Penalties for failure to secure payment of compensation; injunctions.** ~~Any An~~ An employer required to secure the payment of compensation under this section who fails to secure compensation shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than ~~\$25.00~~ one hundred dollars (\$100) nor more than ~~\$1,000.00~~ one thousand dollars (\$1,000). In addition ~~thereto, any~~ an employer required to secure the payment of compensation under this section who fails to secure ~~such the~~ the compensation shall be liable for two times the amount of compensation which would have otherwise been payable for injury or death to an employee. The director is ~~authorized to may~~ may apply to ~~any~~ a court of competent jurisdiction for an injunction to restrain threatened or continued violation of any provisions relating to the requirements of insurance or self-insurance. The court may institute civil penalties against an employer in noncompliance with this act, in an

amount not to exceed one hundred dollars (\$100) per day. Subsequent compliance with this act shall not be a defense.

"(f) Employer insurance policies.

"(1) REQUIRED AND PROHIBITED PROVISIONS. Insurance policies written pursuant to this section shall contain a clause to the effect that, as between the ~~workman~~ worker and the insurer, notice to and knowledge by the employer of the occurrence of the injury shall be deemed notice and knowledge on the part of the insurer; that jurisdiction of the employer for the purpose of this chapter shall be jurisdiction of the insurer; and, that the insurer will in all things be bound by and subject to the ~~awards, adjudgment~~ award or judgment rendered against ~~such~~ the employer upon the risk so insured. ~~Such~~ The policies shall provide that the ~~workman~~ worker shall have an equitable lien upon any amount ~~which~~ that shall become owing, on account of ~~such~~ the policy, to the employer from the insurer, and, in case of legal incapacity or inability of the employer to receive the ~~said~~ amount owing and pay it over to the ~~workman~~ worker or his or her ~~dependents~~ dependent, that the ~~said~~ insurer will pay the same direct to the ~~said workman~~ worker or ~~dependents~~ dependent, thereby discharging all obligations under the policy to the employer and all the obligations of the employer and the insurer to the ~~workman, worker.~~ but such Such policies, however, shall contain no obligations relieving the insurance company from payment of obligations ~~when~~ if the employer becomes insolvent or discharged in bankruptcy or otherwise during the period the policy is in force, if the compensation remains owing. The insurer must be one authorized by law to conduct ~~such~~ business in the state of Alabama, and all insurance companies writing such insurance may include in their policies, in addition to the requirements now provided by law, the additional requirements, terms, and conditions ~~in this section~~ provided in this section.

"(2) FILING OF AND APPROVAL OF PREMIUM AND RISK CLASSIFICATIONS. ~~Every~~ An insurance corporation, mutual corporation, reciprocal exchange, or association authorized to transact the business of ~~workmen's~~ workers' compensation insurance in this state and which insures employers against liability for compensation under ~~the provisions of~~ this chapter shall file with the Department of Insurance its classification of risks and premiums relating thereto and any subsequent proposed classification of risks and premiums, together with the basic rates and merit-rating schedules, if a system of schedule rating or merit rating is used by ~~such~~ the insurance corporation, exchange, or association, none of which shall take effect until the ~~director~~ Commissioner of the Department of Insurance shall have approved the same as

reasonable, adequate, and not excessive. All filings with the Department of Insurance containing aggregate industry data of classifications of risks and premiums, rates, and merit-rating schedules pertaining to workers' compensation insurance shall be public records, notwithstanding any other provisions of Alabama law. Prior to approval of any bureau loss cost or rate filing related to workers' compensation insurance, the Commissioner of the Department of Insurance may convene a public hearing with reasonable public notice for the purpose of considering public testimony and other evidence relevant to the filing pending. Within 10 days after such approval, of said rates, schedules and system of schedule or merit rating by said director the Commissioner of the Department of Insurance, he shall make or cause to be made a sufficient number of printed or typewritten copies of same for such that purpose, and shall mail at least one copy of each of the same to every insurance carrier writing workmen's workers' compensation business in the state of Alabama, at its the carrier's last address or at the last address of its designated agent to receive the same left in writing by such carrier with said department. And every such The insurance carrier shall (or if such insurance carrier it is a member of or associated with a rating or inspection bureau, either or both of them, or a concern or aggregation of like character, it shall cause such the rating and inspection bureau, either or both, or concern or aggregation of like character with which it is affiliated to do so) file with the Department of Insurance a full and complete statement of the actuarial and underwriting experience data and the like in its possession, from which and upon which said the rates, schedules, and systems so filed were ascertained, calculated, and constructed, and, within six months after the expiration of each succeeding six months, shall file a like statement of all actuarial and underwriting data and the like, pertaining to such the rates, schedules, and system accumulated or acquired by it during the preceding six months. Upon failure to file said the statement within the time specified above, said the rates, schedules, or and systems may be presumed by the director Commissioner of the Department of Insurance, without more, to be excessive, unreasonable, inadequate to provide the necessary reserves, or discriminatory, as the case may be. The said director Commissioner of the Department of Insurance may withdraw his or her approval of any premium rate or schedule made by any such an insurance corporation, association, mutual corporation, or reciprocal exchange, if, in his or her judgment, such the premium rate or schedule is excessive, or unreasonable, or discriminatory, or is inadequate to provide the necessary reserves. The commissioner shall withdraw approval of any premium rate or schedule shown by a motor common carrier employer to be conditioned on the motor common carrier accepting the coverage of owner-operators or lease-operators as a condition to providing coverage for the motor common carrier employer's employees.

"Nothing contained in this chapter or in any other law of this state shall affect the right of ~~any an~~ insurance corporation or ~~any a~~ mutual or reciprocal insurance corporation or association to issue participating policies or contracts or to pay savings, refunds, or dividends upon such the policies or contracts.

"(3) PAYMENT OF INSURANCE COSTS BY EMPLOYEES.

No agreement by an employee to pay to an employer any portion of the cost of insuring his or her risk under this chapter shall be valid unless such the agreement between the employer and employee, the plan of which is part of a contract, is approved in writing by the ~~director commissioner of the department of insurance of the state of Alabama~~. But the employer and the ~~workman~~ worker may agree to carry the risks ~~covered by this chapter in conjunction with other and greater risks~~ and to provide other and greater benefits, such as additional compensation, accident, sickness, or old age insurance; or benefits, and the fact that such the plan involves a contribution by the ~~workman~~ worker shall not prevent its validity if such the plan has been approved in writing by the ~~director commissioner of the department of insurance of Alabama~~. ~~Any An~~ employer who ~~shall make~~ makes any charge or deduction prohibited by this section ~~shall be~~ is guilty of a misdemeanor.

"(4) DIRECT ACTIONS AGAINST INSURERS. If the employer ~~shall insure to his employees~~ insures the payment of the compensation provided by this chapter and according to the full benefits thereof and with full coverage under this chapter in a corporation or association authorized to do business in ~~the state of Alabama~~ and approved by the ~~director commissioner of the department of insurance of the state of Alabama~~, and if the employer ~~shall post~~ posts a notice or notices in a conspicuous place or in conspicuous places about his or her place of employment, stating that he or she is insured and by whom insured; and if the employer ~~shall further file~~ files a copy of such the notice with the Department of Insurance, then, and in such case, any civil actions brought by an injured employee or ~~his the~~ employee's dependents ~~dependent~~ shall be brought directly against the insurer, and the employer, or insured, shall be released from any further liability. ~~In case of insolvency or bankruptcy of said insurance company or in case~~ If the insurance company is insolvent or bankrupt, or if it cannot be reached by due diligence by process in this state, the employer shall not be released from liability under the provisions of this chapter. Should any recovery be had in excess of the amount of the insurance carried, the employer shall be liable for such the excess. The return of any execution upon any a judgment of any an employee against any such an insurance company, unsatisfied in whole or in part, shall be conclusive evidence of the insolvency of such the insurance company for the

purposes of this chapter, and, ~~in the event of adjudication of bankruptcy or insolvency of any such insurance company~~ if the insurance company is adjudged to be bankrupt or insolvent by any a court of competent jurisdiction, proceedings may be brought by the employee against the employer in the first instance or against ~~such the~~ employer and the insurance company jointly or severally or in ~~any a~~ pending proceeding against ~~any the~~ insurance company, and the employer may be joined at any time after ~~such the~~ adjudication.

"(g) Employer bill of rights-penalty.

"(1) Every insurance carrier and self-insurers, individual and group, shall, on written request of the insured employer, provide the employer with a list of claims made against the employer. The information provided to the employer shall include amounts paid for closed claims and, if requested, details regarding the treatment and condition of the injured or disabled worker. The employer shall also receive notice of any proposed settlement of any claim against the employer if the employer so requests in writing.

"(2) Failure to comply with subdivision (1) may subject the violator to a fine, upon hearing by a court, of not less than twenty-five dollars (\$25) or more than one hundred dollars (\$100).

"(h) An insurance corporation, mutual corporation, reciprocal exchange, or association authorized to transact the business of workers' compensation insurance in this state may not refuse to insure any risk that tenders the necessary premium except on the basis of previous claim experience of the employer within the preceding three years."

Section 7. Section 25-5-10, Code of Alabama 1975, is amended to read as follows:

"§25-5-10.

"(a) Any A person who creates or carries into operation any fraudulent scheme, artifice, or device to enable him to execute work without himself being responsible to the workman worker for the provisions of benefits provided by this chapter shall himself be included in the term 'employer' and shall be subject to all the liabilities of employers under this chapter. But this section shall not be construed to cover or mean an owner who lets a contract to a contractor in good faith, nor to a contractor who, in good faith, lets to a subcontractor a portion of his contract; but no person shall be deemed a contractor or subcontractor so as to make him liable to pay compensation within the

~~meaning of this section who performs his work upon the employer's premises, with the employer's tools or appliances, and under the employer's directions, nor one who does what is commonly known as "piece work," or, in any way, where the system of employment used merely provides a method of fixing the workman's wages.~~

"(b) When compensation is claimed from or proceedings taken against a person under subsection (a) of this section, the compensation shall be calculated with reference to the wage the ~~workman~~ worker was receiving from the person by whom he or she was immediately employed at the time of the injury.

"(c) The employer shall not be liable or required to pay compensation for injuries due to the acts of or omissions of third persons not at the time in the service of the employer nor engaged in the work in which the injury occurs, except as provided in Section 25-5-11."

Section 8. Section 25-5-11, Code of Alabama 1975, is amended to read as follows:

"§25-5-11.

"(a) ~~Where~~ If the injury or death for which compensation is payable under Articles 3 or 4 of this chapter was caused under circumstances also creating a legal liability for damages on the part of any party other than the employer, whether or not ~~such the~~ party is subject to ~~the provisions of~~ this chapter, the employee, or his or her dependents in case of ~~his~~ death, may proceed against the employer to recover compensation under this chapter or may agree with the employer upon the compensation payable under this chapter, and, at the same time, may bring an action against ~~such the~~ other party to recover damages for ~~such the~~ injury or death, and the amount of ~~such the~~ damages shall be ascertained and determined without regard to this chapter. ; provided, however, if such If a party, other than the employer, is a workers' compensation insurance carrier of the employer or any person, firm, association, trust, fund, or corporation responsible for servicing and payment of workers' compensation claims for the employer, or any officer, director, agent, ~~servant~~ or employee of ~~such the~~ carrier, person, firm, association, trust, fund, or corporation, or is a labor union, or any official or representative thereof, or is a governmental agency providing occupational safety and health services, or an employee of the agency, or is an officer, director, agent, ~~servant~~ or employee of the same employer, or his or her personal representative, the injured employee, or his or her dependents in the case of ~~his~~ death, may bring ~~such~~ an action against any workers' compensation insurance

carrier of the employer or any person, firm, association, trust, fund, or corporation responsible for servicing and payment of workers' compensation claims for the employer, ~~or such~~ labor union, or the governmental agency, or such person, or his or her personal representative, only for willful conduct which results in or proximately causes the injury or death. If the injured employee, or in case of his death, his or her dependents, recover damages against ~~such~~ the other party, the amount of ~~such~~ the damages so recovered and collected shall be credited upon the liability of the employer for compensation. ~~and if such~~ If the damages so recovered and collected should be are in excess of the compensation payable under this chapter, there shall be no further liability on the employer to pay compensation on account of ~~such~~ the injury or death. To the extent of ~~any such~~ the recovery of damages against ~~such~~ the other, the employer shall be entitled to reimbursement for the amount of compensation theretofore paid on account of ~~such~~ injury or death. If the employee who recovers damages is receiving or entitled to receive compensation for permanent total disability, then the employer shall be entitled to reimbursement for the amount of ~~such~~ compensation theretofore paid, and the employer's obligation to pay further compensation for permanent total disability shall be suspended for the number of weeks which equals the quotient of the total damage recovery, ~~(less the amount of any reimbursement for compensation already paid),~~ divided by the amount of the weekly benefit for permanent total disability which the employee was receiving or to which the employee was entitled. For purposes of this act, the employer shall be entitled to subrogation for medical and vocational benefits expended on behalf of the employee pursuant to the common law of Alabama, or based upon equitable principles, or otherwise as determined on a case-by-case basis by the court.

"(b) If personal injury or death to any employee results from the willful conduct, as defined in subsection (c) herein, of any officer, director, agent, ~~servant~~ or employee of the same employer or any workers' compensation insurance carrier of the employer or any person, firm, association, trust, fund, or corporation responsible for servicing ~~and any~~ payment of workers' compensation claims for the employer, or any officer, director, agent, ~~servant~~ or employee of ~~such~~ the carrier, person, firm, association, trust, fund, or corporation, or of a labor union, or an official or representative thereof, the employee shall have a cause of action against ~~such~~ the person, workers' compensation carrier, or labor union.

"(c) As used herein, 'willful conduct' means any of the following:

"(1) A purpose or intent or design to injure another; and ~~where~~

if a person, with knowledge of the danger or peril to another consciously pursues a course of conduct with a design, intent, and purpose of inflicting injury, then he or she is guilty of 'willful conduct.'

"(2) The willful and intentional removal from a machine of a safety guard or safety device provided by the manufacturer of the machine with knowledge that injury or death would likely or probably result from ~~such~~ the removal; provided, however, that removal of ~~such~~ a guard or device shall not be willful conduct unless ~~such~~ the removal did, in fact, increase the danger of in the use of the machine and was not done for the purpose of repair of the machine or was not part of an improvement or modification of the machine which rendered the safety device unnecessary or ineffective; ~~or.~~

"(3) The intoxication of another employee of the employer ~~when~~ if the conduct of that employee has wrongfully and proximately caused injury or death to the plaintiff or plaintiff's decedent, but no employee shall be guilty of willful conduct on account of the intoxication of ~~any other~~ another employee or ~~other~~ another person; ~~or.~~

"(4) Willful and intentional violation of a specific written safety rule of the employer after written notice to the violating employee by another employee who, within six months after the date of receipt of ~~such~~ the written notice, suffers injury resulting in death or permanent total disability as a proximate result of ~~said~~ the willful and intentional violation. ~~Said~~ The written notice to the violating employee must state with specificity all of the following:

"a. The identity of the violating employee; ~~.~~

"b. The specific written safety rule being violated and the manner of the violation; ~~.~~

"c. That the violating employee has repeatedly and continually violated the specific written safety rule referred to in b above with specific reference to previous times, dates, and circumstances; ~~.~~

"d. That ~~such~~ the violation places the notifying employee at risk of great injury or death.

"A notice that does not contain all of the above elements will not be valid notice for purposes of this section. An employee shall not be liable for ~~such~~ the willful conduct if the injured employee himself or herself violated a safety rule, or otherwise contributed to his or her own injury. ~~and no~~ No employee shall be held liable under this ~~paragraph~~

section for the violation of any safety rule by any other employee or for failing to prevent any violation by any other employee.

"(d) In the event the injured employee, or his or her dependents, in case of ~~his~~ death, ~~his dependents~~ do not file a civil action against ~~such~~ the other party to recover damages within the time allowed by law, the employer or the insurance carrier for the employer shall be allowed an additional period of six months within which to bring a civil action against ~~such~~ the other party for damages on account of ~~such~~ the injury or death. In the event the employer or the insurance carrier ~~shall have~~ has paid compensation to ~~such~~ the employee or his or her dependents dependent, or in the event a proceeding is pending against the employer to require the payment of ~~such~~ the compensation, ~~such~~ the civil action may be maintained either in the name of the injured employee or, in the name of his or her dependent in case of his death, in the name of his dependents, or in the name of the employer or the insurance carrier. ~~and in~~ In the event the damages recovered in ~~such~~ the civil action are in excess of the compensation payable by the employer under this chapter and costs, attorney's fees, and reasonable expenses incurred by the employer in making ~~such~~ the collection, the excess of ~~such~~ the amount shall be held in trust for the injured employee or, in case of his death, for his the employee's dependents. ~~In the event~~ If ~~such~~ the injured employee has no dependents dependent, his the personal representative, in the event of his death, may bring a civil action against ~~such~~ the other party to recover damages without regard to this chapter.

"(e) In ~~any~~ settlement a recovery made under this section with a third party by the employee or, in the case of his death, by his or her dependents, the employer shall be liable for that part of the attorney's fees and expenses incurred in the settlement with the third party, ~~either~~ with or without a civil action, in the same proportion that the amount of the reduction in the employer's liability to pay compensation, plus all medical and vocational expenses paid by the employer to which the employer is entitled to reimbursement under Section 25-5-11(a), bears to the total recovery had from ~~such~~ the third party.

"(f) For the purpose of this section, ~~any~~ a carrier, person, firm, association, trust, fund, or corporation ~~shall include any~~ includes a company or a governmental agency making a safety inspection on behalf of ~~any~~ a self-insured employer or its employees and ~~any~~ an officer, director, agent, ~~servant~~ or employee of ~~such~~ the company or a governmental agency."

Section 9. Section 25-5-18, is added to the Code of Alabama 1975, to read as follows:

"§25-5-18.

"Director's duty to provide upon request information regarding the contents of this chapter.

"Upon request, the director shall provide information concerning the contents of this chapter by establishing a toll-free telephone access to the Department of Industrial Relation. This access shall be established to provide the employer, employee, or other interested party answers to questions concerning the workers' compensation system. It shall be utilized to assist all interested parties in understanding their rights and responsibilities under this chapter and to assist all interested parties in protecting their rights under this chapter. The department shall supply information concerning rights available under the workers' compensation process, but the department shall not be an advocate for any party nor shall the department refer any person or party to a specific law firm or attorney."

Section 10. Section 25-5-50, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 3.

"ELECTIVE COMPENSATION UNDER CONTRACT

"OF EMPLOYMENT.

"§25-5-50.

"This article and ~~article~~ Article 2 of this chapter shall not be construed or held to apply to ~~domestic servants, to farm laborers~~ an employer of a domestic employee; an employer of a farm laborer; ~~whose employers have not filed an election to become subject to this chapter or to persons~~ an employee of a person whose employment at the time of the injury is casual and not in the usual course of the trade, business, profession, or occupation of the employer; ~~or to any~~ an employer who regularly employs less than three employees in any one business; other than the business of constructing or assisting on-site in the construction of single-families, detached residential dwellings or ~~to any~~ a municipality having a population of less than 2,000 according to the most recent federal decennial census. ~~Any~~ An individual employer, ~~as defined in section 25-5-1 hereof,~~ any employer who regularly employs less than three employees in any one business; ~~any farmer,~~ a farm-labor employer; an employer of a domestic employee; or ~~any~~ a municipality having a population of less than 2,000 according to the

most recent federal decennial census, may accept and become subject to ~~the provisions of this article and article~~ Article 2 of this chapter by filing written notice thereof with the Department of Industrial Relations, a copy thereof to be posted at the place of business of ~~said the~~ employer; provided further, that ~~any an~~ employer who has so elected to accept ~~the provisions of this article and article~~ Article 2 ~~4~~ of this chapter may at any time withdraw the acceptance by giving like notice of withdrawal.

"Notwithstanding the foregoing paragraph, ~~any an~~ officer of a corporation may elect annually to be exempt from coverage by filing written certification of ~~such the~~ election with the department of ~~industrial relations~~ and ~~his the~~ employer's insurance carrier.

"~~A~~ At the end of any calendar year, a corporate officer who has ~~been exempted, himself~~ by proper certification from coverage, may ~~at the end of any calendar year~~ revoke ~~such the~~ exemption and thereby accept coverage by filing written certification of his ~~or her~~ election to be covered with the department of ~~industrial relations~~ and ~~his the~~ employer's insurance carrier.

"The certification for exemption or reinstatement of coverage shall become effective on the first day of the calendar month following the filing of the certification of exemption or reinstatement of coverage with the department of ~~industrial relations~~.

~~"In the event that~~ If the corporate officer ~~election occurs~~ elects to be exempt from coverage, ~~such the~~ election shall not relieve the employer from continuing coverage for all other eligible employees who may have been covered prior to the election or who may subsequently be employed by the firm.

"This section shall provide for voluntary coverage of certified volunteer fire departments as described in Section 9-3-17 and legally organized rescue squads approved by the Alabama Forestry Commission that meet the minimum personnel and equipment standards as established by the Alabama Association of Rescue Squads, that are engaged in fighting a fire or performing other duties involving any emergency incident and while performing any official supervised duties of the organization, including maintaining equipment and attending official training classes, and while traveling to and from an emergency incident.

"In all cases where an injury that is compensable under the terms of the Alabama workers' compensation law is received by a volunteer fire fighter or rescue squad member, the wages for purposes of computing the average weekly wage shall be equal to 66 2/3 percent of

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what he or she is earning at his or her regular place of employment or 66 2/3 percent of the minimum wage, whichever is greater.

"In no event shall the regular employer of a volunteer fire fighter or rescue squad member be liable for a compensable injury under this section."

Section 11. Section 25-5-51, Code of Alabama 1975, is amended to read as follows:

"§25-5-51.

"~~When~~ If an employer is subject to this article, compensation, according to the schedules hereinafter contained, shall be paid by ~~every~~ ~~such~~ the employer, or those conducting the business during bankruptcy or insolvency, in every case of personal injury or death of his or her employee caused by an accident arising out of and in the course of his or her employment, without regard to any question of negligence, except, that. Notwithstanding the foregoing, no compensation shall be allowed for an injury or death caused by the willful misconduct of the employee, or by the employee's intention to bring about the injury or death of himself or herself or of another, or due to his own intoxication or his or her willful failure or willful refusal to use safety appliances provided by the employer or by an accident due to the injured employee being intoxicated from the use of alcohol or being impaired by illegal drugs.

"A positive drug test conducted and evaluated pursuant to standards adopted for drug testing by the U.S. Department of Transportation in 49 C.F.R. part 40 shall be a conclusive presumption of impairment resulting from the use of illegal drugs. No compensation shall be allowed if the employee refuses to submit to or cooperate with a blood or urine test as set forth above after the accident or occupational disease after being warned in writing by the employer that such refusal would forfeit the employee's right to recover benefits under this chapter.

"No compensation shall be allowed if at the time of or in the course of entering into employment or at the time of receiving notice of the removal of conditions from a conditional offer of employment the employee knowingly and falsely misrepresents in writing his or her physical or mental condition and said condition is aggravated or reinjured in an accident arising out of and in the course of his or her employment.

"At the time an employer makes an unconditional offer of employ-

ment or removes conditions previously placed on a conditional offer of employment, the employer shall provide the employee with the following written warning in bold type print, 'Misrepresentations as to preexisting physical or mental conditions may void your workers' compensation benefits.' If the employer defends on the ground that the injury arose in any or all of the last above-stated ways, the burden of proof shall be on the employer to establish such the defense."

Section 12. Section 25-5-54, Code of Alabama 1975, is amended to read as follows:

"§25-5-54.

~~"All contracts of employment made on or after January 1, 1920, shall be presumed to have been made with reference to and subject to the provisions of this article. All contracts of employment made prior to, and existing on, January 1, 1920, shall be presumed to continue from and after January 1, 1920, subject to and under the provisions of this article.~~ Every employer and employee, except as otherwise specifically provided in this article, shall be presumed to have accepted and come under this article and Article 4 of this chapter and the provisions thereof relating to the payment and acceptance of compensation."

Section 13. Section 25-5-55, Code of Alabama 1975, is amended to read as follows:

"§25-5-55.

~~"Minors shall, for~~ For the purposes of this article and Article 4 of this chapter, minors shall have the same power to contract, make settlements and receive compensation as adult employees, subject to the power of the court, in its discretion, ~~at any time~~ to require the appointment of a guardian to make ~~such the~~ settlement and to receive moneys thereunder or under an award. Payments of awards made to ~~such~~ minors or their guardians shall exclude any further compensation either to the minors or to their parents for loss of services or otherwise."

Section 14. Section 25-5-56, Code of Alabama 1975, is amended to read as follows:

"§25-5-56.

"The interested parties shall have the right to settle all matters of compensation benefits, whether involving compensation, medical payments, or rehabilitation, and all questions arising under this article

and Article 4 of this chapter between themselves, and every settlement ~~made under this article~~ shall be in amount the same as the amounts or benefits stipulated in this article. No settlement for an amount less than the amounts or benefits stipulated in this article shall be valid for any purpose, unless a judge of the circuit court of the county where the claim for compensation under this chapter is entitled to be made, or upon the written consent of the parties, a judge of the circuit court of any county determines that it is for the best interest of the employee or ~~his the employee's dependents~~ dependent to accept a lesser sum and approves ~~such the~~ settlement. The court shall not approve any ~~such~~ settlement unless and until it has first made inquiry into the bona fides of a claimant's claim and the liability of the defendant; and if deemed advisable, the court may hold a hearing thereon. ~~Any settlements~~ Settlements made ~~hereunder~~ may be vacated for fraud, undue influence, or coercion, upon application made to the judge approving the settlement at any time not later than six months after the date of settlement. Upon ~~such~~ settlements being approved, judgment shall be entered thereon and duly entered on the records of ~~said the~~ court in the same manner and have the same effect as other judgments or as an award if the settlement is not for a lump sum. ~~The costs of the proceedings shall not exceed \$2.00 and shall be borne by the employer. Such proceeding shall not be deemed subject to state trial, library or other taxes, general or local.~~ All moneys voluntarily paid by the employer or insurance carrier to an injured employee in advance of agreement or award shall be treated as advance payments on account of the compensation. In order to encourage advance payments, it is expressly provided that ~~such the~~ payments shall not be construed as an admission of liability but shall be without prejudice."

Section 15. Section 25-5-57, Code of Alabama 1975, is amended to read as follows:

"§25-5-57.

"(a) Compensation schedule. Following is the schedule of compensation:

"(1) TEMPORARY TOTAL DISABILITY. For injury producing temporary total disability, the compensation shall be 66 2/3 percent of the average weekly earnings received at the time of injury, subject to a maximum and minimum weekly compensation as stated in Section 25-5-68, but if at the time of injury the employee received average weekly earnings of less than the minimum stated in Section 25-5-68, then he or she shall receive the full amount of ~~such the~~ average weekly earnings per week. This compensation shall be paid during the

time of ~~such~~ the disability, but at ~~such~~ the time as a temporary total disability shall become permanent, compensation for the continued total disability shall be governed by ~~the provisions of~~ (a)(4) of this section with respect to permanent total disability. Payments are to be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree.

"(2) TEMPORARY PARTIAL DISABILITY.

"a. Amount and Duration of Compensation. ~~In all cases of~~ For temporary partial disability, the compensation shall be $66 \frac{2}{3}$ percent of the difference between the average weekly earnings of the ~~workman~~ worker at the time of the injury and the average weekly earnings he or she is able to earn in his or her partially disabled condition. This compensation shall be paid during the period of ~~such~~ the disability, but not, ~~however,~~ beyond 300 weeks. Payments shall be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree, and shall be subject to the same maximum weekly compensation as stated in Section 25-5-68.

"b. Effect of Change in Employment. If the injured employee who is receiving ~~such~~ compensation for temporary partial disability ~~should leave~~ leaves the employment of the employer by whom he or she was employed at the time of the accident for which ~~such~~ the compensation is being paid, he or she shall, upon securing employment elsewhere, give to ~~such~~ the former employer an affidavit in writing containing the name of his or her new employer, the place of employment, and the amount of wages being received at ~~such~~ the new employment, and until he or she gives ~~such~~ the affidavit, the compensation for temporary partial disability shall cease. The employer for whom ~~such~~ the employee was employed at the time of the accident for which ~~such~~ the compensation is being paid may also at any time demand of ~~such~~ the employee an additional affidavit, in writing, containing the name of his or her employer, the place of his or her employment, and the amount of wages he or she is receiving; and, if the employee upon ~~such~~ demand fails or refuses to make and furnish ~~such~~ the affidavit, his or her right to compensation for temporary partial disability shall cease until ~~such~~ the affidavit is made and furnished.

"(3) PERMANENT PARTIAL DISABILITY.

"a. Amount and Duration of Compensation. For permanent partial disability, the compensation shall be based upon the extent of ~~such~~ the disability. In cases included in the following schedule, the compensation shall be $66 \frac{2}{3}$ percent of the average weekly earnings,

during the number of weeks set out in the following schedule:

- "1. For the loss of a thumb, 62 weeks.
- "2. For the loss of a first finger, commonly called the index finger, 43 weeks.
- "3. For the loss of a second finger, 31 weeks.
- "4. For the loss of a third finger, 22 weeks.
- "5. For the loss of a fourth finger, commonly called the little finger, 16 weeks.
- "6. The loss of the first phalange of the thumb or of any finger shall be considered as equal to the loss of one half of ~~such~~ the thumb or finger, and compensation shall be paid at the prescribed rate during one half of the time specified above for ~~such~~ the thumb or finger.
- "7. The loss of two or more phalanges shall be considered as the loss of the entire finger or thumb, but in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.
- "8. For the loss of a great toe, 32 weeks.
- "9. For the loss of any of the toes other than the great toe, 11 weeks.
- "10. The loss of the first phalange of any toe shall be considered to be equal to the loss of one half of ~~such~~ the toe, and compensation shall be paid at the prescribed rate during one half the time prescribed above for ~~such~~ the toe.
- "11. The loss of two or more phalanges shall be considered as the loss of an entire toe.
- "12. For the loss of a hand, 170 weeks.
- "13. For the loss of an arm, 222 weeks.
- "14. For the loss of a foot, 139 weeks.
- "15. Amputation between the elbow and wrist shall be considered as the equivalent to the loss of a hand, and amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot.

- "16. For the loss of a leg, 200 weeks.
- "17. For the loss of an eye, 124 weeks.
- "18. For the complete and permanent loss of hearing in both ears, 163 weeks.
- "19. For the complete and permanent loss of hearing in one ear, 53 weeks.
- "20. For the loss of an eye and a leg, 350 weeks.
- "21. For the loss of an eye and one arm, 350 weeks.
- "22. For the loss of an eye and a hand, 325 weeks.
- "23. For the loss of an eye and a foot, 300 weeks.
- "24. For the loss of two arms, other than at the shoulder, 400 weeks.
- "25. For the loss of two hands, 400 weeks.
- "26. For the loss of two legs, 400 weeks.
- "27. For the loss of two feet, 400 weeks.
- "28. For the loss of one arm and the other hand, 400 weeks.
- "29. For the loss of one hand and one foot, 400 weeks.
- "30. For the loss of one leg and the other foot, 400 weeks.
- "31. For the loss of one hand and one leg, 400 weeks.
- "32. For the loss of one arm and one foot, 400 weeks.
- "33. For the loss of one arm and one leg, 400 weeks.
- "34. For serious disfigurement, not resulting from the loss of a member or other injury specifically compensated, materially affecting the employability of the injured person in the employment in which he or she was injured or other employment for which he or she is then qualified, 66 2/3 percent of the average weekly earnings for such the period as the court may determine, but not exceeding 100 weeks.

"b. Successive or Concurrent Temporary Total and Permanent Partial Disabilities Resulting from Same Injury. When a permanent partial disability, the number of weeks compensation for which is scheduled in subdivision (a)(3) of this section, follows or accompanies a period of temporary total disability resulting from the same injury, the number of weeks of ~~such~~ the temporary total disability shall not be deducted from the number of weeks payable for ~~such~~ the permanent partial disability.

"c. Concurrent Disabilities. ~~Where~~ If an employee sustains concurrent injuries resulting in concurrent disabilities, he or she shall receive compensation only for the injury which entitled him or her to the largest amount of compensation, but this paragraph shall not affect liability for the concurrent loss of more than one member for which members compensation is provided in the specific schedule.

"d. Loss of Use of Member. ~~In all cases, the~~ The permanent and total loss of the use of a member shall be considered as equivalent to the loss of that member, but in such cases the compensation ~~in and by said specified in the schedule for such injury~~ shall be in lieu of all other compensation, except as otherwise provided herein. ~~In case of~~ For permanent disability due to injury to a member resulting in less than total loss of use of ~~such~~ the member not otherwise compensated in this schedule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss or total loss of use of the respective member which the extent of the injury to the member bears to its total loss.

"e. Effect of Refusal of Suitable Employment. If an injured employee refuses employment suitable to his or her capacity offered to or procured for him or her, he or she shall not be entitled to any compensation at any time during the continuance of ~~such~~ the refusal, unless at any time, in the opinion of the judge of the circuit court of the county of his or her residence, ~~such~~ the refusal is justifiable.

"f. Maximum and Minimum Compensation Awards. ~~All compensation~~ Compensation provided in this subsection (a) for loss of members or loss of use of members is subject to the same limitations as to maximum and minimum weekly compensation as stated in Section 25-5-68.

"g. Compensation for Permanent Partial Disabilities Not Enumerated. ~~In For all other cases of permanent partial disability disabilities~~ not above enumerated, the compensation shall be 66 2/3 percent of the difference between the average weekly earnings of the

~~workman~~ worker at the time of the injury and the average weekly earnings he or she is able to earn in his or her partially disabled condition, subject to the same maximum weekly compensation as stated in Section 25-5-68. ~~When~~ If a permanent partial disability, compensation for which is not calculated by use of the schedule in subdivision (a)(3) of this section, follows a period of temporary total disability resulting from the same injury, the number of weeks of ~~such~~ the temporary total disability shall be deducted from the number of weeks payable for ~~such~~ the permanent partial disability. Compensation shall continue during disability, but not, ~~however~~, beyond 300 weeks.

"h. Affidavit of New Employment. ~~In case~~ If the injured employee leaves the services of the employer for whom he or she was working at the time of the accident and accepts employment elsewhere, he or she shall make and furnish affidavit as to his or her new employment in the manner as required in ~~subdivision~~ subsection (a)(2) of this section.

"(4) PERMANENT TOTAL DISABILITY.

"a. Amount, Duration, and Payment of Compensation. For permanent total disability, as defined in paragraph d of this subdivision, the employee shall receive 66 2/3 percent of the average weekly earnings received at the time of the injury, subject to a maximum and minimum weekly compensation as stated in Section 25-5-68; ~~provided, that,~~ Notwithstanding the foregoing, if at the time of injury the employee was receiving earnings of less than the minimum as stated in Section 25-5-68, then he or she shall receive the full amount of his or her earnings per week. This compensation shall be paid during ~~such~~ the permanent total disability, as defined in said paragraph d. of this subdivision. Payment of ~~such~~ the compensation shall be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree. ~~Such~~ The payments, with the approval of the circuit judge or by the agreement of the parties, may be made monthly, quarterly, or otherwise as the parties may agree. Payments for permanent total disability shall not be ordered to be paid in a lump sum without the consent of both the employer and the employee.

"b. Alteration, Amendment, or Revision of Compensation. At any time, the employer may petition the circuit court ~~which~~ that awarded or approved compensation for permanent total disability to alter, amend, or revise the award or approval of ~~such~~ the compensation on the ground that as a result of physical or vocational rehabilitation, or otherwise, the disability from which the employee suffers is no longer a permanent total disability and, if the court is so satisfied after a hearing, it shall alter,

amend, or revise the award accordingly. If compensation for permanent total disability is being paid pursuant to a written agreement between employer and employee without ~~court~~ approval, the employer may make application to a circuit court that would have had jurisdiction to award ~~such the~~ compensation to the employee to alter, amend, or revise the agreement on such grounds. If an employee is receiving benefits for permanent total disability other than as a result of an award or a written agreement between the employer and employee and if the employer terminates the payment of ~~such the~~ benefits, the employee may, within two years of the last payment, petition the court to reinstate ~~such the~~ benefits and, upon a showing that ~~such the~~ permanent total disability still exists, shall be entitled to have ~~such the~~ benefits reinstated effective the date of the last payment.

"c. Employees in Public Institutions. In case an employee, who is permanently and totally disabled, becomes an inmate of a public institution, ~~then~~ no compensation shall be payable unless ~~he has the~~ employee has wholly dependent on him or her for support a person or persons named in Sections 25-5-61 and 25-5-62, whose dependency shall be determined as if the employee were deceased, in which case the compensation provided for in this subdivision shall be paid for the benefit of ~~such the~~ person so dependent, during dependency, in the manner so ordered by the court, while the employee is an inmate in ~~such the institution; provided, however, that nothing.~~ Nothing contained herein shall be construed to deprive a permanently and totally disabled employee who has no ~~dependents~~ dependent named in Sections 25-5-61 and 25-5-62 from receiving benefits to which he or she would otherwise be entitled if ~~said the~~ employee, although an inmate of a public institution, is paying or on whose behalf funds are paid from any source to ~~said the~~ public institution the normal and customary charge for the services rendered by ~~said the~~ public institution. Normal and customary charge shall mean that charge actually made by the public institution to persons able to pay for the services rendered them whether said charge actually covers the expense of the upkeep of ~~said the~~ inmate or not. ~~In the event said~~ If the employee has had a guardian appointed by a court of competent jurisdiction, ~~said workmen's~~ the workers' compensation payments shall be directly paid to ~~said the~~ guardian.

"d. Definition. The total and permanent loss of the sight of both eyes or the loss of both arms at the shoulder or any physical injury or mental impairment resulting from an accident, which injury or impairment permanently and totally incapacitates the employee from working at and being retrained for gainful employment, shall constitute prima facie evidence of permanent total disability ~~and but shall not constitute the sole basis on which an award of permanent total disability may be based;~~

provided, that any employee whose disability results from ~~such the~~ injury or impairment and who shall have refused to undergo physical or vocational rehabilitation, or to accept reasonable accommodation shall not be deemed permanently and totally disabled.

"c. Second Permanent Injuries Generally. If an employee has a permanent disability or has previously sustained another injury than that in which ~~he the employee~~ received a subsequent permanent injury by accident, ~~such as is specified in the provisions of this section defining permanent injury,~~ he the employee shall be entitled to compensation only for the degree of injury that would have resulted from the latter accident if the earlier disability or injury had not existed.

~~"f. Second Permanent Injury Resulting in Permanent Total Disability Where First Injury Not in Same Employment. If an employee receives a permanent injury as specified in this section after having sustained another permanent injury other than in the same employment, and if the combined effect of the previous and subsequent injury results in permanent total disability, compensation shall be payable for permanent total disability. Compensation for such permanent total disability shall be paid by the employer to the extent that such employer would have to pay compensation for the degree of injury that would have resulted from the accident if the earlier disability or injury had not existed, and the remainder of the amount of such compensation after the completion of such payments by the employer shall be paid by the director of industrial relations as trustee from any amounts from time to time standing to his account as such trustee in the second injury trust fund; provided, that in order to qualify for benefits from the second injury trust fund, the employer must have had prior knowledge of the previous injury of the employee, and such previous injury must have been of a disabling nature which adversely affected the employability of the employee.~~

"g f. Second Permanent Injury in Same Employment Resulting in Permanent Total Disability. If an employee receives a permanent injury as specified in this section after having sustained another permanent injury in the same employment, and if the previous and subsequent injuries result in permanent total disability, compensation shall be payable for permanent total disability only.

"h g. Concurrent Compensation Payments. If an employee received an injury for which compensation is payable while he or she is still receiving or entitled to receive compensation for a previous injury in the same employment, he or she shall not at the same time be entitled to compensation for both injuries, unless the later injury is a permanent

injury, ~~such~~ as specified in this section, but he or she shall be entitled to compensation for that injury and from the time of that injury which will cover the longest period and the largest amount payable under this article and ~~article 2~~ Article 4 of this chapter.

"If an employee receives a permanent injury as specified in this section, after having sustained another permanent injury in the same employment, he or she shall be entitled to compensation for both injuries, subject to ~~the provisions of~~ paragraph e. of this subdivision, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation, and in no case for permanent partial disability exceeding 700 weeks.

"i h. Effect of Rehabilitation or Recovery on Permanent Total Disability Benefits. ~~In the event~~ If an employee who is receiving benefits for permanent total disability shall, as a result of physical or vocational rehabilitation or otherwise, obtain gainful employment, the obligation to pay permanent total disability benefits shall thereupon terminate; provided, that at any time that the employee's weekly wage from ~~such~~ the employment shall be less than the employee's average weekly wage at the time of injury, the employer shall remain obligated to pay to the employee as compensation an amount equal to 66 2/3 percent of the difference, subject to each of the following limitations:

"1. The employer's liability for the payment of 66 2/3 percent of ~~such~~ the difference shall continue for 200 weeks from the date of reemployment or 300 weeks from the date of injury, whichever is the longer period; .

"2. In no event shall the amount of weekly benefits paid by the employer to the employee exceed the weekly benefit the employee was receiving for permanent total disability; ~~and.~~ .

"3. No payments shall be due for any week the employee earns as much as or more than his or her average weekly wage at the time of injury. If the employee who obtains gainful employment suffered a permanent partial disability as specified in subsection (c), paragraph 1, of this section, the total amount of compensation paid for permanent total disability shall not be less than that amount which would have been payable for ~~such~~ the permanent partial disability.

"j i. Affidavit of Gainful Employment. ~~In the event~~ If an employee who is receiving benefits for permanent total disability shall, as the result of physical or vocational rehabilitation, accommodation, or otherwise, obtain gainful employment with an employer other than with

his or her former employer, he or she shall, upon securing such employment, give to his or her former employer an affidavit in writing containing the name of his or her new employer, the place of employment and the amount of wages being received at such the new employment; and, until he or she gives such the affidavit, the compensation for permanent total disability shall cease. The employer for whom such the employee was employed at the time of the accident for which compensation is being paid may also at any time demand of such the employee additional affidavit, in writing, containing the name of his or her employer, the place of his or her employment, and the amount of wages he or she is receiving; and, if the employee, upon such demand, fails or refuses to make and furnish such the affidavit, his or her rights to compensation shall cease until such the affidavit is made and furnished.

"(5) DEATH FOLLOWING DISABILITY. ~~In case a workman sustained~~ If an employee sustains an injury occasioned by an accident arising out of and in the course of his or her employment and, during the period of disability caused thereby, death results proximately therefrom, all payments previously made as compensation for such the injury shall be deducted from the compensation, if any, due on account of death. If ~~a workman~~ an employee who ~~has sustained~~ sustains a permanent partial or permanent total disability, the degree of which has been agreed upon by the parties or has been ascertained by the court, and death results not proximately therefrom, the employee's surviving spouse ~~and/or~~ or dependent children or both shall be entitled to the balance of the payments which would have been due and payable to the ~~workman~~ worker, whether or not the decedent employee was receiving compensation for permanent total disability, not exceeding, however, the amount that would have been due the surviving spouse ~~and/or~~ or dependent children or both if death had resulted proximately ~~from the injury~~. ~~Except as provided in this subdivision, no benefits shall be payable on account of death resulting, proximately or not proximately, from an injury on account of which compensation is being paid to an employee.~~

"(6) HERNIA.

"a. Proof. ~~In all claims for compensation for~~ For hernia resulting from injury by an accident arising out of and in the course of his the employee's employment, it must be definitely proven to the satisfaction of the court all of the following:

- "1. That there was an injury resulting in hernia₂.
- "2. That the hernia appeared suddenly₂.

"3. That it was accompanied by pain~~7~~.

"4. That the hernia immediately followed an accident~~and~~.

"5. That the hernia did not exist prior to the accident for which compensation is claimed.

"b. Treatment. All hernia, inguinal, femoral, or otherwise, ~~so~~ proved to be the result of an injury by accident arising out of and in the course of the employment, shall be treated in a surgical manner by radical operation. ~~In case~~ If the injured employee refuses to undergo the radical operation for the cure of ~~said the~~ hernia, no compensation will be allowed during the time ~~such the~~ refusal continues. If, however, it is shown that the employee has some chronic disease or is otherwise in ~~such~~ physical condition that the court considers it unsafe for the employee to undergo ~~said the~~ operation, the employee shall be paid as otherwise provided in this chapter.

"(b) Computation of compensation; determination of average weekly earnings.-- Compensation under this section shall be computed on the basis of the average weekly earnings. Average weekly earnings shall mean the earnings of the injured employee in the employment in which he or she was working at the time of the injury during the period of 52 weeks immediately preceding the date of the injury divided by 52, but if the injured employee lost more than seven consecutive calendar days during ~~such the~~ period, although not in the same week, then the earnings for the remainder of ~~such the~~ period, although not in the same week, then the earnings for the remainder of ~~such the~~ 52 weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. Where the employment prior to the injury extended over a period of less than 52 weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, provided results just and fair to both parties will thereby be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of his or her employer or the casual nature or terms of the employment it is impracticable to compute the average weekly earnings as above defined, regard shall be had to the average weekly amount which during the 52 weeks prior to the injury was being earned by a person in the same grade, employed at the same work by the same employer, and if there is no ~~such~~ person so employed, by a person in the same grade employed in the same class of employment in the same district. Whatever allowances of any character made to an employee in lieu of wages are specified as part of the wage contract shall be deemed a part of his or her earnings.

"(c) Setoff for Other Recovery. In calculating the amount of workers' compensation due:

"(1) The employer may reduce or accept an assignment from an employee of the amount of benefits paid pursuant to a disability plan or other plan providing for sick pay by the amount of compensation paid, if and only if the employer provided the benefits or paid for the plan or plans providing the benefits deducted.

"(2) The employee shall forfeit to the employer all compensation paid for any period to which is attributed any award of back pay either by a court, arbitration, or settlement.

"(3) If an employer continues the salary of an injured employee during the benefit period or pays similar compensation during the benefit period in lieu of workers' compensation benefits, it shall be allowed a setoff in weeks against the compensation owed under this article."

Section 16. Section 25-5-58, Code of Alabama 1975, is amended to read as follows:

"§25-5-58.

"If the degree or duration of disability resulting from an accident is increased or prolonged because of a preexisting injury or infirmity, the employer shall be liable only for the disability that would have resulted from the accident had the earlier injury or infirmity not existed, provided that, if an employee is determined to be permanently and totally disabled, and it is determined that the employee has any residual disability from a prior injury which occurred within 5 years of the current injury and for which the employee received, or is receiving permanent worker's compensation disability payments, and said residual disability contributes to the employee's permanent total disability, then the employer shall be entitled to a monetary credit against the current award of permanent total compensation payments in an amount equal to the net recovery by the employee of said previous permanent worker's compensation disability payments. Unless otherwise agreed, the monetary credit, if any, to the employer shall be evenly apportioned and applied over the life expectancy of the employee."

Section 17. Sections 25-5-59 and 25-5-60, Code of Alabama 1975, are amended to read as follows:

"§25-5-59.

"(a) ~~In cases of temporary total or temporary partial disability, no~~

~~compensation shall be allowed for the first three days after disability, except as provided by section 25-5-77, nor~~ For purposes of this article, except for scheduled injuries as provided in Section 25-5-57(a)(3), compensation for the first three days of disability shall not be payable, nor shall compensation be paid in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in Section 25-5-78.

"(b) Compensation shall begin with the fourth day after disability, ~~and, in the event~~ if the disability from the injury exists for a period as much as 21 days, compensation for the first three days after the injury shall be added to and payable with the first installment due the employee after the expiration of the 21 days. If any installment of compensation payable is not paid without good cause within 30 days after it becomes due, there shall be added to ~~such~~ the unpaid installment an amount equal to ~~40~~ 15 percent thereof, which shall be paid at the same time as, but in addition to, ~~such~~ the installment.

"§25-5-60.

"In death cases, where the death results proximately from the accident within three years, compensation payable to dependents shall be computed on the following basis and shall be paid to the persons entitled thereto without administration, or to a guardian or ~~such~~ other person as the court may direct, for the use and benefit of the person entitled thereto.

"(1) PERSONS ENTITLED TO BENEFITS; AMOUNT OF BENEFITS.

"a. If the deceased employee leaves one dependent, there shall be paid to the dependent 50 percent of the average weekly earnings of the deceased.

"b. If the deceased employee leaves two or more dependents, there shall be paid to the dependents $66 \frac{2}{3}$ percent of the average weekly earnings of the deceased.

"c. If one of two or more dependents is a widow or widower, the compensation may be paid to the widow or widower for the benefit of herself or himself and the dependent child or children. In its discretion and when it considers appropriate to do so, the court shall at any time have the power to determine, without the appointment of any guardian or guardians, what portion of the compensation shall be applied for the benefit of any ~~such~~ child or children and may order the same paid to a

guardian or custodian of ~~such~~ the child or children.

"d. Partial dependents shall be entitled to receive only that proportion of the benefits provided for total dependents which the average amount of the earnings regularly contributed by the deceased employee to ~~such~~ the partial dependent, at and for a reasonable time immediately prior to the injury, bore to the total income of the dependent during the same time. If there is one dependent and one or more partial dependents and the dependent is not entitled to the maximum amount of compensation provided in Section 25-5-68, there shall be paid to the partial dependent or partial dependents that percentage of the benefit paid to a full dependent which the contribution of the decedent to the partial dependent's support bears to the total income of the partial dependent; provided, that the compensation payable to ~~such~~ the partial dependent or dependents shall not exceed the lesser of 16 2/3 percent of the decedent's average weekly wage or the difference between the compensation payable to the full dependent and the maximum weekly compensation benefit payable as provided in Section 25-5-68.

"e. If compensation is being paid under this article to any dependent, ~~such~~ the compensation shall cease upon the death or marriage of ~~such~~ the dependent, unless otherwise provided in this article.

"f. Upon the cessation of compensation to or for any dependent, for any cause, the compensation of the remaining dependents entitled to compensation shall, for the unexpired period during which their compensation is payable, be that which would have been payable to them had they been the only persons entitled to compensation at the time of death of the deceased employee.

"(2) MAXIMUM AND MINIMUM COMPENSATION AWARDS. -- The compensation payable in case of death to persons wholly dependent shall be subject to a maximum and minimum weekly compensation as stated in Section 25-5-68, but if at the time of injury the employee receives earnings of less than the minimum stated in Section 25-5-68, then the compensation shall be the full amount of such earnings per week. The compensation payable to partial dependents shall be subject to a maximum and minimum weekly compensation as stated in Section 25-5-68, but if the income loss of ~~said~~ the partial dependents by ~~such~~ the death is less than the minimum weekly compensation stated in Section 25-5-68, then the dependents shall receive the full amount of their income loss. This compensation shall be paid during dependency, not exceeding 500 weeks. Payments shall be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree."

Section 18. Section 25-5-66, Code of Alabama 1975, is amended to read as follows:

"§25-5-66.

"In case of the remarriage of a widow of an employee who has another dependent children, the unpaid balance of compensation, which would otherwise become due her, shall be paid to such children the dependent or may, on approval by the court, be paid to some suitable person designated by the court for the use and benefit of such children the dependent. Payment to such that person shall discharge the employer from any further liability."

Section 19. Section 25-5-67, Code of Alabama 1975, is amended to read as follows:

"§25-5-67.

~~"In all cases where~~ If death results to an employee ~~caused by as the result of an accident or an occupational disease arising out of and in the course of his the employee's employment,~~ the employer shall pay, in addition to the medical and hospital expenses provided for in Section 25-5-77, the expenses of burial, not exceeding in amount \$1,000.00 three thousand dollars (\$3,000). ~~In case~~ If a dispute arises as to the reasonable value of the services rendered in connection with the burial, the same shall be approved by the court before payment after ~~such~~ reasonable notice to interested parties as the court may require."

Section 20. Section 25-5-68, Code of Alabama 1975, is amended to read as follows:

"§25-5-68.

~~"(a) With respect to injury or death resulting from an accident occurring before February 1, 1985, the compensation paid under this article shall be not less than, except as otherwise provided in this article, 25 percent of the average weekly wage of the state as determined by the director of industrial relations (rounded to the nearest dollar) pursuant to subsection (c) of this section and, in any event, no more than 66 2/3 percent of such average weekly wage of the state.~~

~~"(b) (a) With respect to injury or death resulting from an accident occurring on or after February 1, 1985, the~~ The compensation paid under this article shall be not less than, except as otherwise provided in this article, 27 1/2 percent of the average weekly wage of the state

as determined by the director of industrial relations ~~(, rounded to the nearest dollar),~~ pursuant to subsection ~~(c)~~ (b) of this section and, in any event, no more than 100 percent of ~~such~~ the average weekly wage; ~~except that the maximum compensation payable for permanent partial disability shall be no more than the lesser of \$220.00 per week or 100 percent of such average weekly wage.~~

"(c) (b) For the purpose of this section, the average weekly wage of the state shall be determined by the director of industrial relations as follows: On or before June 1 of each year, the total wages reported on contribution reports to the unemployment compensation division of the department of industrial relations for the preceding calendar year shall be divided by the average monthly number of insured workers ~~(, which shall be determined by dividing the sum of the number of insured workers reported for each month of the preceding year by 12).~~ The average annual wage thus obtained shall be divided by 52, and the average weekly wage thus determined rounded to the nearest cent. The average weekly wage as so determined shall be applicable for the 12-month period beginning July 1 following the June 1 determination. If ~~such~~ the determination shall not be made on or before June 1, the effective date of the average weekly wage when determined shall be the first day of the month next following 30 days after ~~such~~ the determination is made.

"(d) (c) The maximum and minimum weekly benefit shall not be changed on any July 1 or as a result of any annual determination, unless the computation provided for in subsection ~~(c)~~ (b) of this section results in an increase or decrease of ~~\$2.00~~ two dollars (\$2) or more in the amount of either the maximum or minimum benefit.

"(e) (d) In no event, except as provided for permanent total disability in subdivision (a)(4) of Section 25-5-57 or except for compensation benefits payable for permanent partial and temporary total disability in connection with a disability scheduled in subdivisions (1) and (3) of subsection (a) of Section 25-5-57, shall the total amount of compensation payable for ~~any~~ an accident or an occupational disease exceed the product of 500 times the maximum weekly benefit applicable on the date of the accident.

"(f) (c) The minimum and maximum benefits that are in effect on the date of the accident which results in injury or death shall be applicable for the full period during which compensation is payable."

Section 21. Sections 25-5-70 to 25-5-75, inclusive, Code of Alabama 1975, are repealed.

Section 22. Section 25-5-77, Code of Alabama 1975, is amended to read as follows:

"§25-5-77.

"(a) In addition to the compensation provided in this article and Article 4 of this chapter, the employer, where applicable, shall pay the actual cost of the repair, refitting, or replacement of artificial members damaged as the result of an accident arising out of and in the course of employment, and the employer, except as otherwise provided in this act, shall pay an amount not to exceed the actual cost prevailing rate of reimbursement or payment of reasonably necessary medical and surgical treatment and attention, physical rehabilitation, medicine, medical and surgical supplies, crutches, artificial members, and other apparatus as the result of an accident arising out of and in the course of employment, as may be obtained by the injured employee or, in case of death, obtained during the period occurring between the time of the injury and ~~his~~ the employee's death therefrom. If the employee is dissatisfied with the initial treating physician selected by the employer and if further treatment is required, the employee may so advise the employer, and ~~in such event~~ the employee shall be entitled to select a second physician from a panel or list of four physicians selected by the employer. ~~In the event~~ If surgery is required, and if the employee is dissatisfied with the designated surgeon, ~~he or she~~ he or she may so advise the employer, and ~~in such event~~ the employee shall be entitled to select a second surgeon from a panel or list of four surgeons selected by the employer. If four physicians or surgeons are not available to be listed, the employer shall include on the list as many as are available. The four physicians or surgeons selected by the employer hereunder shall not be from or members of the same firm, partnership, or professional corporation. The total liability of the employer shall, unless otherwise provided in this act, be limited to such charges as prevail for similar treatment in the community where the injured employee resides not exceed the prevailing rate of reimbursement or payment for similar treatment in the State of Alabama. Notwithstanding the foregoing, in ascertaining the prevailing rate of reimbursement or payment with regard to participating hospitals and ambulatory surgical centers or outpatient rehabilitation centers licensed by the State of Alabama, the prevailing rate shall be negotiated with each individual hospital, ambulatory surgical center, or licensed outpatient rehabilitation facility based on that institution's expenditure for diagnosis and treatment of comparable type cases for the 12-month period immediately preceding the effective date of this legislation. These rates will be updated every 12 months thereafter. Initial rates shall be established within six months of passage of this bill. For those non-participating hospitals the prevailing rate shall be determined by a

committee. In the first year the committee shall be composed of five members. The director shall appoint one member from the Department of Industrial Relations and two members from the community where the non-participating hospital is located. The non-participating hospital shall appoint two members. This committee shall by a majority vote establish the maximum rates of reimbursement or payment for the non-participating hospital, and the hospital shall be bound for one year by said determined rates of reimbursement or payment for workers' compensation cases. If after the first year since the rates were established by this committee, the hospital is again non-participating, then another committee shall be appointed. This committee shall have three members selected by the non-participating hospital and two members selected by the director. The committee composition shall alternate as above described each year the hospital is non-participating. The total liability of the employer shall not exceed the rates established by the committee. This committee in determining the rates of reimbursement or payments to the hospital may consider such factors as the hospital's size, staffing, medical equipment, and any other factors which the committee may consider relevant. ~~In case~~ If an insurer of the employee or a benefit association has paid or is liable for ~~such the employee's~~ medical, surgical, and hospital service or for a part thereof, or ~~in case~~ if the employee is entitled to the same or a part thereof, from any source whatever by virtue of any agreement or understanding or law, state or federal, without any loss of benefit to the employee, the employer shall not be required ~~in such case~~ to pay any part of ~~such the expense, unless said~~. If the benefits are insufficient to pay all ~~such the employee's~~ expense, and ~~in such event~~ the employer shall be liable for the deficiency only. All cases of dispute as to the necessity and value of ~~such the~~ services shall be determined by the tribunal having jurisdiction of the claim of the injured employee for compensation.

"(b) ~~The~~ If requested to do so by the employer, the injured employee ~~must~~ shall submit himself to examination by the employer's physician at all reasonable times, ~~if requested to do so by the employer~~, but the employee shall have the right to have a physician of his or her own selection present at ~~such the~~ examination, in which case the employee shall be liable to ~~such the~~ physician of his or her own selection for his or her services. The employer shall pay for the services of the physician making the examination at the instance of the employer. ~~And in case of~~ If a dispute arises as to the injury, or as to the extent of the disability therefrom, the court may, at the instance of either party or of its own motion, appoint a neutral physician of good standing and ability to make an examination of the injured ~~person~~ employee and to report his or her findings to the court, the expense of which examination shall be borne equally by the parties. If the injured employee refuses to comply

with ~~any~~ reasonable request for examination, or refuses to accept the medical service or physical rehabilitation, which the employer elects to furnish under ~~the provisions of this chapter, his~~ the employee's right to compensation shall be suspended and no compensation shall be payable for the period of ~~such~~ the refusal. ~~Any~~ A physician whose services are furnished or paid for by the employer, or ~~any~~ a physician of the injured employee who treats or makes or is present at any examination of ~~any~~ an injured employee may be required to testify as to any knowledge obtained by him or her in the course of ~~such~~ the treatment or examination as ~~same~~ the treatment or examination related to the injury or the disability arising therefrom. ~~Any such~~ The physician shall, upon written request of the injured employee or his or her employer and without consent of or notice to the employee or employer not making ~~such~~ the request, furnish ~~such~~ the injured employee or his or her employer a written statement of his or her professional opinion as to the extent of the injury and disability. In all death claims where the cause of death is obscure or is disputed, any interested party may require an autopsy, the cost of which is to be borne by the party demanding the ~~same~~ autopsy. The term 'physicians' shall include medical doctor, surgeon, and chiropractor. ~~Any~~ A hospital, medical clinic, rehabilitation service, or other person or entity providing treatment to an employee or providing facilities at which the employee receives treatment shall, upon the written request of the employee or of the employer, furnish, at a reasonable cost, the employee or the employer a copy of the records, including X-rays and laboratory reports, relating to ~~such~~ the treatment of the injured employee. ~~Such~~ The copy may be furnished without the consent of or notice to the employee or employer not making ~~such~~ the request. ~~Any~~ A physician, hospital, medical clinic, rehabilitation service, or other person or entity providing ~~any~~ written statement of professional opinion or copies of records pursuant to this subsection shall not be liable to any person for ~~any~~ a claim arising out of the release of medical information concerning the employee.

"(c) If the employer so elects, the employee shall submit to and undergo vocational rehabilitation at the employer's expense through a vocational rehabilitation ~~facility or institution recommended by a vocational rehabilitation specialist, which facility or institution~~ who shall be qualified to render competent vocational rehabilitation service. If an employee who is unable in the opinion of the treating physician to return to his or her former employment shall request vocational rehabilitation and if both a vocational rehabilitation specialist and a treating physician, the cost of whose service is the obligation of the employer under this section, shall express their opinions in writing that in the judgment of each of them vocational rehabilitation is reasonably calculated to restore the employee to gainful employment and is in the best interest of the

employee, the cost of ~~such~~ the rehabilitation shall be borne by the employer. ~~Such~~ The cost, where rehabilitation requires residence at or near a facility or institution away from the employee's customary residence, shall include reasonable charges for the employee's necessary board, lodging, and travel.

~~"(d) Refusal of the employee to accept rehabilitation at the employer's request shall result in loss of compensation for each week of the period of refusal."~~

"(d) If an employee refuses, without the consent of the court, to accept vocational rehabilitation at the employer's request, the refusal shall result in loss of compensation for the period of refusal."

"(e) All disputes with regard to vocational rehabilitation may be submitted to the court for resolution."

"(f) The employer shall pay mileage costs to and from medical and rehabilitation providers at the same rate as provided by law for official state travel."

"(g) In a compensable workers' compensation claim, the injured employee shall not be liable for payment of any authorized and compensable medical expenses associated with the workers' compensation claim."

"(h) All undisputed medical reimbursements or payments shall be made within 25 working days of receipt of claims in the form prescribed and approved by the director. There shall be added to any invoice which is not paid within 25 working days an amount equal to 10 percent of the unpaid balance. Notwithstanding the foregoing, after one year from the date of the implementation of this subsection (h), all payments shall be made within 15 working days of receipt of claims in the form prescribed and approved by the director."

Section 23. (a) Any party, including a health care provider, is entitled to a review by a Workers' Compensation Specialist of medical services that are provided or for which authorization of payment is sought if any party or the health care provider has any of the following:

(1) Been denied payment or had the charge reduced for medical services rendered.

(2) Been denied authorization for the payment of services requested or performed when authorization is required by the medical policies of the director.

(3) Been ordered by the director to refund payments received for the provision of medical services.

(b) A party to a medical dispute that remains unresolved after a review of medical services as provided by this section may petition the circuit court for relief.

(c) Notwithstanding the foregoing, disputes relating to the provision of medical services, as defined in Section 58 of this act, or payments therefor, must be resolved according to the dispute resolution mechanism established by the Workers' Compensation Medical Services Board, as established by this act.

Section 24. Section 25-5-78, Code of Alabama 1975, is amended to read as follows:

"§25-5-78.

~~"Every~~ For purposes of this article only, an injured employee or ~~his~~ the employee's representative ~~shall~~, within five days after the occurrence of an accident, ~~shall~~ give or cause to be given to the employer written notice of the accident, and ~~the employee, if he fails to give such notice, if the notice is not given, the employee or the employee's dependent shall not be entitled to physician's or medical fees nor any compensation which may have accrued under the terms of this article and article 2 of this chapter, unless it can be shown that the party required to give such the notice had been prevented from doing so by reason of physical or mental incapacity, other than minority, fraud or deceit, or equal good reason, but no compensation shall be payable unless such the written notice is given within 90 days after the occurrence of the accident or, where if death results, within 90 days after the death."~~

Section 25. Section 25-5-80, Code of Alabama 1975, is amended to read as follows:

"§25-5-80.

"In case of a personal injury, including cumulative physical stress, all claims for compensation under this article ~~and article 2 of this chapter~~ shall be forever barred unless within two years after the accident the parties shall have agreed upon the compensation payable under this article ~~and article 2 of this chapter~~ or unless within two years after the accident one of the parties shall have filed a verified complaint as provided in section 25-5-88. In case of death, all claims for compensation

shall be forever barred unless within two years after death, when the death results proximately from the accident within three years, the parties shall have agreed upon the compensation under this article ~~and article 2 of this chapter~~, or unless within two years after ~~such~~ the death one of the parties shall have filed a verified complaint as provided in ~~section~~ Section 25-5-88. Where, however, payments of compensation as distinguished from medical or vocational payments have been made in any case, said limitations shall not take effect until the expiration of two years from the time of making the last payment. In case of physical or mental incapacity, other than the minority of the injured person or his or her dependents, to perform or cause to be performed any act required within the time in this section specified, the period of limitation in any ~~such~~ case shall be extended to become effective two years from the date when ~~such~~ the incapacity ceases."

"§25-5-81.

"(a) Commencement of action in circuit court.

"(1) PROCEDURE. -- In case of a dispute between employer and employee or between the dependents of a deceased employee and his employer with respect to the right to compensation under this article and article 2 of this chapter, or the amount thereof, either party may submit the controversy to the circuit court of the county which would have jurisdiction of a civil action in tort between the same parties. Such controversy shall be heard and determined by such judge or judges of said court as would hear and determine a civil action between the same parties arising out of tort, and, in case there is more than one judge of such court, such controversies shall be set and assigned for hearing under the same rules and statutes that civil actions in tort are set and assigned. Such court may hear and determine such controversies in a summary manner. The decision of the judge hearing the same shall be conclusive and binding between the parties, subject to the right of appeal provided for in this article.

"(2) RIGHT TO JURY TRIAL. -- When wilful misconduct on the part of the employee is set up by the employer, as it is provided for in this article, the employer may, upon appearing, demand a jury to hear and determine, under the direction of the court, the issues involved in this defense. If the employer fails to demand a jury upon appearing, the employee may demand a jury to try such issues by filing his demand within five days after the appearance of the employer. When a jury is demanded by either party, the court must submit the issues of fact as to wilful misconduct set up by the employer to the jury, for a special finding of the facts subject to the usual powers of the court over verdicts

rendered contrary to the evidence or the law, but the judge must determine all other questions involved in the controversy without a jury. Upon setting up such defense, the employer must serve a copy of the answer, setting up the defense, upon the employee or his attorney of record.

"(b) Court deemed open at all times. -- For the purpose of hearing and determining controversies between an employer and employee or the dependents of a deceased employee and the employer, arising under this article and article 2 of this chapter, the circuit court shall be deemed always in session.

"(c) Interpleader of adverse claimants to compensation. - - If at any time there are adverse claimants to compensation under this article, the employer, in submitting said claim to said circuit court, may suggest in writing said claimants, and they shall be required to interplead. Said court shall determine and order to which claimant or claimants such compensation is justly due, and said employer, upon complying with the order of such judge, shall be released from the claims of any other claimants thereto.

"(d) Review. -- From such order or judgment, any aggrieved party may, within 42 days thereafter, appeal to the court of civil appeals and such review shall be as in cases reviewed by certiorari.

(e) Discovery. -- Methods of discovery shall be determined and established in rules promulgated by this act and the rules established by the Alabama Rules of Civil Procedure with the limitations of pre-trial discovery as set forth below. Additionally, the following rules of discovery shall apply to worker's compensation cases:

(1) Interrogatories shall not be permitted without leave of court for good cause shown.

(2) Depositions shall not be permitted without leave of court for good cause shown.

(3) All written records, reports, and affidavits of medical providers may be submitted to the court without testimony.

(4) Vocational expert's opinions, reports, and affidavits may be submitted to the court in writing without testimony.

(5) Physical therapist's records and reports may be submitted to the court without testimony.

(6) Relevant and material records of the employee and employer, including but not limited to payroll records, may be admissible without testimony.

(7) Certified copies of records, documents, and affidavits shall be self-authenticating without need of testimony.

It is the intent of this section that limited discovery shall be available."

Section 26. Section 25-5-83, Code of Alabama 1975, is amended to read as follows:

"§25-5-83.

"By agreement of the parties and with approval of the court, the amounts of compensation payable periodically, under this article and Article 4 of this chapter, may be commuted to one or more lump sum payments. No such commutation shall be approved by the court unless the court is satisfied that it is in the best interest of the employee or the employee's ~~dependents~~ dependent, in case of death, to receive the compensation in a lump sum rather than in periodic payments. In making ~~such~~ the commutations, the lump sum payment shall, in the aggregate, amount to a sum equal to the present value of all future installments of compensation calculated on a six percent basis."

Section 27. Section 25-5-85, Code of Alabama 1975, is amended to read as follows:

"§25-5-85.

"At any time after the amount of ~~any~~ an award has been agreed upon by the parties or found and ordered by the court, a sum equal to the present value of all future installments of compensation calculated on a six percent basis may, where death or the nature of the injury renders the amount of future payments certain, by leave of court, be paid by the employer to ~~any savings~~ a bank or trust company of this state or ~~any~~ a national bank doing business in this state to be approved and designated by the court, and ~~such~~ the sum, together with all interest thereon, shall thereafter be held in trust for the employee or ~~dependents~~ dependent of the employee, who shall have no further recourse against the employer. The payment of ~~such~~ the sum by the employer, evidenced by the receipts in duplicate of the trustees, one of which shall be filed with the probate judge of the county in which the injury or death occurred and the other filed with the clerk of the circuit court, shall operate as a satisfaction of

said the award as to the employer, and the trustee designated by the court shall be allowed to pay itself from said the fund a reasonable compensation for acting as such the trustee, which compensation shall be fixed by the court in the order making such the designation. Payments from said the fund shall be made by the trustee in the same amounts and at the same time as are required in this article of the employer until said the fund, after deducting the trustee's compensation as above provided, and interest shall be exhausted. In the appointment of the trustee, preference shall be given, in the discretion of the court, to the choice of the injured employee or the dependents dependent of the deceased employee as the case may be. In the event If the right to receive compensation should terminate on account of death, becoming of age, or marriage, or for any other cause as provided in this article, the balance remaining in said the bank or trust company after such the termination should be returned by them to the employer, his or her successor, or assigns."

Section 28. Section 25-5-86, Code of Alabama 1975, is amended to read as follows:

"§25-5-86.

"For purposes of this article and Article 4 of this chapter:

"(a) (1) In all cases in which If the award, order, or judgment settlement agreement is payable in installments and default has been made in the payment of any an installment, the owner or interested party may, upon the expiration of 30 days from said the default and upon five days' notice to the defaulting employer or defendant, move for a modification of the judgment award or award settlement agreement by ascertaining the cash or present value of same the case, including the 15 percent penalty provision of Section 25-5-59, under the rule of computation contained in Section 25-5-85, and upon which execution may issue; unless however, the defaulting employer enters may relieve itself of the execution by entering into a good and sufficient bond, to be approved by the circuit judge, securing the payment of all future installments, and forthwith pays all past due installments with interest and penalty thereon since due. Said The bond shall be recorded upon the minutes of the circuit court.

"(b) (2) Claims for compensation, or awards, or judgments, or agreements to pay compensation owned by an injured employee or his or her dependents dependent shall not be assignable and shall be exempt from seizure or sale or garnishment for the payment of any debt or liability. There shall be no right to waive this exemption."

Section 29. Section 25-5-90, Code of Alabama 1975, is amended to read as follows:

"§25-5-90.

"No part of the compensation payable under this article and Article 4 of this chapter shall be paid to ~~attorneys~~ an attorney for the plaintiff claimant or an attorney for the employer for legal services, unless, upon the application of the plaintiff to a judge of the circuit court, such judge shall order or claimant or the employer, the judge approves approve of the employment of an attorney by the plaintiff claimant and by the employer; and in such event, the judge, upon the hearing of the complaint for compensation, either by law or by settlement, shall fix the fee of the attorney for the plaintiff claimant and employer for his or her legal services and the manner of its payment, but such the fee for the attorney for the claimant shall not exceed 15 percent of the compensation awarded or paid and the compensation for the attorney for the employer shall not exceed the amount approved for payment to the claimant's attorney."

Section 30. (a) It is the intent of the Legislature to promote safety education, safety planning, and to provide technical assistance.

(b) The director shall coordinate with the Safe State Program, the safety and health consulting service, to establish a safety program for cooperating with industry to promote safety and provide technical assistance. Emphasis shall be placed on unsafe acts in small industry and high risk industry.

(c) Qualified safety management specialists shall be employed in the Safe State Program to assist employers in developing or improving their safety programs. Safe State Program personnel shall, upon referral by the director of an employer's request, make inspections for safety monitoring and report the resulting findings and recommendations to the employer and to the director.

(d) The Safe State Program shall establish and collect reasonable fees for technical and consultative safety services, that are not required by law, provided to persons requesting the services from or through the workers' compensation division.

Section 31. Section 25-5-110, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 4.

"COMPENSATION FOR OCCUPATIONAL
"DISEASES ~~GENERALLY~~.

"§25-5-110.

"For the purposes of this article, the following terms shall have the meanings respectively ascribed to them by this section:

"(1) OCCUPATIONAL DISEASE. A disease arising out of and in the course of employment, ~~other than including~~ occupational pneumoconiosis and occupational exposure to radiation as defined in ~~articles 5 and 7, respectively, of this chapter~~ subsections 2 and 3, respectively, of this section, which is due to hazards in excess of those ordinarily incident to employment in general and is peculiar to the occupation in which the employee is engaged but without regard to negligence or fault, if any, of the employer. A disease, (including, but not limited to, loss of hearing due to noise), shall be deemed an occupational disease only if caused by a hazard recognized as peculiar to a particular trade, process, occupation, or employment as a direct result of exposure, over a period of time, to the normal working conditions of ~~such the~~ trade, process, occupation, or employment. ~~The term "occupational disease" shall not include accidents within the meaning of articles 3, 5 and 7 of this chapter.~~

"(2) OCCUPATIONAL PNEUMOCONIOSIS. A disease of the lungs caused by inhalation of minute particles of dust over a period of time, which dust is due to causes and conditions arising out of and in the course of the employment, without regard to whether the causes or conditions are inherent in the employment or can be eliminated or reduced by due care on the part of the employer. The term 'occupational pneumoconiosis' shall include, but without limitation, such diseases as silicosis, siderosis, anthracosis, anthrasilicosis, anthracosilicosis, anthraco-tuberculosis, tuberculosilicosis, silico-tuberculosis, aluminosis, and other diseases of the lungs resulting from causes enumerated in this section.

"(3) OCCUPATIONAL EXPOSURE TO RADIATION. Gradual exposure to radiation over a period of time from the use of or direct contact with radium, radioactive substances, roentgen rays (X-rays), or ionizing radiation, arising out of and in the course of the employment and resulting from the nature of the employment in which the employee is engaged, without regard to whether or not the exposure is inherent in the employment or can be eliminated or reduced by due care on the part of the employer.

"(4) NATURE OF EMPLOYMENT. With respect to subdivi-

sions (2) and (3) above, this term shall mean that, as to the industry in which the employee is engaged, there is attached a particular hazard of the exposure that distinguishes it from the usual run of occupations and is in excess of the hazards of the exposure attending employment in general.

~~"(2) (5)~~ **CONTRACTION OF AN OCCUPATIONAL DISEASE.** Such This term shall include any aggravation of ~~such~~ the disease without regard to the employment in which the disease was contracted."

Section 32. Section 25-5-116, Code of Alabama 1975, is amended to read as follows:

"§25-5-116.

"(a) ~~Where~~ If compensation is payable under this article for an occupational disease other than pneumoconiosis or radiation, the only employer liable, if any, shall be the employer in whose employment the employee was last exposed to the hazards of said the disease. The employer who is liable shall not be entitled to contribution from any other employer of such the employee.

"(b) If compensation is payable for pneumoconiosis or radiation, the only employer liable, if any, shall be the employer in whose employment the employee was last exposed in each of at least 12 months, within a period of five years prior to the date of the injury, to the hazards of the disease."

Section 33. Section 25-5-117, Code of Alabama 1975, is amended to read as follows:

"§25-5-117.

"(a) In case of the contraction of an occupational disease, as defined in this article, or of injury or disability resulting therefrom, all ~~claims~~ a claim for compensation, as defined in Section 25-5-1, shall be forever barred, unless within one year two years after the date of the injury, as hereinafter defined, the parties shall have agreed upon the compensation payable under this article, or unless within one year two years after the date of the injury, one of the parties shall have filed a verified complaint as provided in ~~section~~ Section 25-5-88. In case of death, all ~~claims for compensation~~ the claim shall be forever barred, unless within two years after the death, if death results proximately from the occupational disease, as defined in this article, and occurs within three years of the date of the injury, as hereinafter defined, and unless

~~within one year after such death~~ the parties shall have agreed upon the compensation under this article, or unless within one year two years after such death, one of the parties shall have filed a verified complaint as provided in ~~section~~ Section 25-5-88. Notwithstanding the foregoing, if upon the date of the death of the employee, the employee's claim is barred, any claim by or for his or her dependent shall likewise be barred. Where If, however, payments of compensation have been made ~~in any case, said~~ the limitations as to compensation shall not take effect until the expiration of one year two years from the time of making the last payment. In case of physical or mental incapacity, other than the minority of the injured employee, or his or her dependents dependent, to perform or cause to be performed any act required within the time ~~in this section~~ specified in this section, the period of limitation in any ~~such~~ case shall be extended to become effective one year two years from the date when such the incapacity ceases. No agreement, express or implied, to shorten or to extend ~~said~~ the limitations shall be valid or binding on either of the parties ~~when said~~ if the employment, at the time of said the exposure, is or was subject to the provisions of this article. The date of the injury shall mean, for all purposes of this article, the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease.

"(b) For the purposes of occupational diseases other than pneumoconiosis or radiation, 'the date of the injury' shall mean the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease.

"(c) For purposes of pneumoconiosis and radiation, 'the date of the injury' shall mean the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease in each of at least 12 months, within a period of five years prior to the date of the injury."

Section 34. Section 25-5-120, Code of Alabama 1975, is amended to read as follows:

"§25-5-120.

"There shall be no not be a presumption that disablement or death from any cause or infirmity is the result of an occupational disease, nor that an occupational disease will result in disablement or death, and any person claiming compensation or other benefits under this article shall

have the burden of establishing that he or she is entitled to ~~such~~ the benefits."

Section 35. Sections 25-5-140 through 25-5-180, Code of Alabama 1975, are repealed.

Section 36. Section 25-5-250, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 9.

"~~ALABAMA WORKMEN'S~~ WORKERS' COMPENSATION

"SELF-INSURERS GUARANTY ASSOCIATION.

"§25-5-250.

"There is created a nonprofit corporation to be known as the 'Alabama ~~Workmen's~~ Workers' Compensation Self-Insurers Guaranty Association, Incorporated,' hereinafter referred to as 'the association.' The purpose of the association shall be to create and fund an insolvency fund to assure payment of ~~workmen's~~ workers' compensation claims due from self-insuring employers who are members of the association and who become insolvent. The association shall have those powers granted or permitted nonprofit corporations, as provided in Title 10, as amended. In addition, the corporation shall have the power to borrow funds as necessary to carry out its purposes, and to purchase ~~such~~ insurance and reinsurance as is deemed necessary."

Section 37. Section 25-5-251, Code of Alabama 1975, is amended to read as follows:

"§25-5-251.

"(a) All employers who elect to be self-insurers for ~~workmen's~~ workers' compensation as provided in ~~section 25-5-8(b), as amended,~~ Article 1, other than self-insurers which are governmental entities, or public utilities, shall be members of the association as a condition of their authority to self-insure. Membership shall be sufficient security for self-insurance.

"(b) Membership in the association shall cease when the employer terminates its self-insurance election. However, terminating members shall be and remain liable for the period of time in which they

were members of the association and for any subsequent assessments made for that period.

"(c) Membership in the association may be terminated for ~~non-payment~~ nonpayment of assessments.

"(d) The association shall not issue stock and its members shall not, as such, be liable for its obligations."

Section 38. Section 25-5-254, Code of Alabama 1975, is amended to read as follows:

"§25-5-254.

"(a) To the extent necessary to secure funds for the payment of covered claims and costs of administration, the association may levy annual assessments on members of the association at a rate not to exceed ~~\$15.00~~ fifteen dollars (\$15) per ~~\$1,000.00~~ one thousand dollars (\$1,000) of security amount established by the department for the respective members. Assessments shall be remitted to and administered by the association as provided in the bylaws. The rate of annual assessments against members of the association may vary by duration of membership so that the cumulative contribution rate of recently admitted members becomes the same as previously admitted members.

"(b) If, at any time, the insolvency fund is not sufficient to make the payments or reimbursements then owing, the association may levy a special assessment on members of the association at a rate not to exceed ~~\$15.00~~ fifteen dollars (\$15) per ~~\$1,000.00~~ one thousand dollars (\$1,000) of security amount established by the department for each member, but ~~such~~ any special assessment may not be levied more than once in each calendar year.

"(c) No state funds shall be allocated or paid to the association except those funds which may accrue to the association by or through assignments of rights of an insolvent employer. All monies in the fund shall be held in trust and shall not be money or property of the state or the participants in the association."

Section 39. Section 25-5-255, Code of Alabama 1975, is amended to read as follows:

"§25-5-255.

"Upon receipt of the funds assessed on members, the association

may set aside funds for the administration of its affairs, and the balance of the funds shall be deposited to an insolvency fund under the following terms:

"~~(a)~~ (1) The fund is created for the purpose of assuring payment of ~~workmen's~~ workers' compensation claims against members of the association who become insolvent; but only those claims which accrue while the insolvent employer is a member of the association and accrue prior to the determination of insolvency or within 30 days thereafter. The obligation of the fund shall be limited to the obligation of the insolvent employer under the ~~Workmen's~~ Workers' Compensation Act, in an amount not to exceed 150 percent of the amount of security as determined by the department as of the last annual financial review. The fund shall have all defenses of and shall be subrogated to all rights of the insolvent employer. The fund shall not be liable for any penalties or interest assessed against the employer.

"~~(b)~~ (2) ~~It shall be the duty of the~~ The department of industrial relations to shall determine insolvency of any self-insurer employers, and to notify the association of its determination. Members and directors of the association are specifically forbidden to be given information on the financial condition of any members except the fact of determination of insolvency.

"~~(c)~~ (3) The director ~~of the department of industrial relations~~, or his or her representative, will shall at all reasonable times have full and free access to the books and records of the association and may audit the association's financial affairs as he or she deems necessary. Should the director deem the balance in the insolvency fund insufficient to meet projected liabilities, he or she shall inform the board of directors, and after consultation with them, he or she shall set the amount which he or she deems sufficient and the board of directors shall levy assessments as provided herein to secure that amount.

"~~(d)~~ (4) The association shall be subrogated to all rights of any claimant whose claim it pays and shall have a claim against the member employer for all ~~such~~ claims and expenses of administration.

"~~(e)~~ (5) If at any time the insolvency fund is insufficient to pay all claims then owing, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as sufficient funds become available."

"WORKERS' COMPENSATION MEDICAL SERVICES BOARD"

Section 40. For the purposes of this new article the following words and phrases have the respective meanings ascribed by this section:

(1) BOARD. The Workers' Compensation Medical Services Board.

(2) MEDICAL or MEDICAL SERVICES. Any and all medical or surgical services provided by physicians under this article.

(3) PHYSICIAN. A doctor of medicine or doctor of osteopathy licensed to practice medicine.

Section 41. There is created and established a Workers' Compensation Medical Services Board which shall be composed of five physicians licensed to practice medicine in the State of Alabama who shall be appointed by the Director of the Department of Industrial Relations. The initial board shall be appointed from among a list of 10 nominees submitted to the director by the Medical Association of the State of Alabama.

Members of the board shall serve terms of five years. In order that the appointments be staggered, one member shall serve an initial term of six years; one member shall serve an initial term of two years; one member shall serve an initial term of three years; one member shall serve an initial term of four years; and the remaining member shall serve an initial term of five years. Thereafter their successors shall be appointed by the director from among a list of three nominees submitted by the Medical Association of the State of Alabama to serve full five-year terms. A member of the board shall continue to serve beyond the expiration of his or her term of office until his or her successor is legally appointed. Members of the Workers' Compensation Medical Services Board shall be eligible to serve two five-year terms of office in addition to an initial or unexpired term of less than three years, but shall not serve thereafter. Members of the board shall be entitled to receive per diem at the rate of four hundred dollars (\$400) per day for each day or portion thereof spent in the performance of the duties of their office and in addition, shall be reimbursed for expenses of travel in the same manner as employees of the State of Alabama.

The Workers' Compensation Medical Services Board shall function as a part of the State Department of Industrial Relations and shall have the authority, duties, and responsibilities as prescribed in this act. The board shall meet annually at a time and place designated by the chair, and may meet more frequently at the call of the chair or upon written request of the director. The board shall elect one of its members

as chair and the chair shall serve a term of one year. The board may adopt rules governing its own proceedings. The department shall provide the board with necessary meeting and office space, secretarial and clerical support, reimbursement for travel expenses, per diem as specified in this act, and additional funding as required by the board for the employment of consultants, attorneys, and other professional staff necessary to accomplish the purposes and objectives stated in this act.

Section 42. The board shall exercise general supervision and superintendence in all matters related to the provision of medical services provided by physicians as defined in this new article rendered to workers under the provisions of this new article. The duties of the board shall include, but are not limited to, the following:

(1) Study, develop, and implement any necessary and reasonable guidelines for medical services and physician care provided by physicians as defined in this new article, and medical necessity determinations for medical services under this new article.

(2) Study, design, and implement standardized uniform claims processing forms and forms for the reporting of medical information to employers and insurance companies by physicians as defined in this new article.

(3) Study, devise, create, and implement a dispute resolution system for medical services provided by physicians as defined in this new article. The decision of the board shall constitute final administrative action, subject only to judicial review under the Alabama Administrative Procedure Act.

(4) Study, devise, and develop a uniform system of utilization review and quality assurance which shall be applicable to all medical services provided by physicians as defined in this new article and provided to beneficiaries herein.

(5) Address and give consideration to those matters referred to it by the director.

(6) The board shall contract with physicians, health care providers, professional associations of physicians and health-related organizations to provide to the board consultation, and research and development expertise in discharging its duties and responsibilities under this new article. Any contract entered into by the board shall be with the approval of the director and shall be paid from the Workers' Compensation Administrative Trust Fund.

(7) The board may create and establish, by regulations promulgated by the Department of Industrial Relations, regional committees of physicians to be appointed by the board to perform any duties and responsibilities specified by the board in programs established for the delivery of medical services under this act. Members of the regional committees shall be physicians as defined in this new article and shall serve at the pleasure of the board. Physicians as defined in this new article serving as members of the regional committees as constituted under this section shall be granted the same immunities as provided to members of the board under this act and existing state law.

(8) Implementation of this section shall be governed and subject to the Alabama Administrative Procedure Act. Rules and regulations relating to the duties and authority of the board, enumerated herein, may be promulgated only with the consent of both the director and the board.

Section 49. Within six months from the effective date of this new article, the board shall submit to the Governor a schedule of maximum fees for medical services covered by this new article. This schedule of maximum fees shall be established by the board at a level which exceeds by 15 percent the preferred provider reimbursement customarily paid by the largest health care service plan incorporated pursuant to Section 10-4-100 to 10-4-115, inclusive, Code of Alabama 1975.

The entire initial schedule of maximum fees, but not individual or separate portions thereof, established by the board shall be subject to acceptance or rejection by the Governor of the State of Alabama. If rejected by the Governor, the schedule of maximum fees shall be referred back to the board for further consideration and resubmission to the Governor for acceptance. The schedule of maximum fees and any additions, deletions, corrections, or changes thereto shall not be considered a rule or regulation requiring publication under the Alabama Administrative Procedure Act. It is the express legislative intent that the Workers' Compensation Medical Services Board shall have the discretion to establish a system of maximum fees under this section for physician services to employees covered by the Workers' Compensation Act and that the schedule of fees shall replace and supplant traditional competitive market mechanisms in the interest of obtaining quality physician services in a cost effective manner. The board shall annually adjust the schedule of fees established pursuant to this section by increases which shall be no more than the annual increase in the cost of living as reflected by the U. S. Department of Labor consumer price index. The board may, from time to time, add to or adjust the schedule of fees in response to changes in technology and medical practice, subject only to the right of

the Governor to accept or reject the addition or adjustment made by the board, and to refer back to the board for further consideration any additions or adjustments which he or she may reject. The liability of the employer for the payment of services rendered by physicians shall not exceed those maximum fees established by the board and approved by the Governor. The employees shall not be liable to the physician for any amount in excess of the schedule of maximum fees established by the board and approved by the Governor.

Section 44. The Workers' Compensation Medical Services Board, the individual members thereof, the agents, servants, employees, consultants, or attorneys of the board, and any person, firm, or corporation contracting with the board for the specific purpose of carrying out the duties, obligations, and responsibilities of the board under this act, shall each be immune from civil liability against the claims of any and all individuals, firms, corporations, institutions, or other entities for any claims of any nature whatsoever arising out of or related to the decisions, opinions, deliberations, reports, or publications which are made, rendered, or entered by the board or the individual members of the board or the agents, servants, employees, consultants, or attorneys of the board or any person, firm, or corporation contracting with the board which decisions, opinions, deliberations, reports, or publications were made in good faith, without malice, and predicated upon information which was then available to the board.

Section 45. (a) Except as provided in subsection (b) of this section, the provisions of this act are severable. If any portion of this act shall be declared invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining portions of this act.

(b) Notwithstanding the provisions of subsection (a) of this section, it is the express intent of the Legislature that Sections 25-5-1, 25-5-11, 25-5-14 to 25-5-17, inclusive, 25-5-51, 25-5-53, 25-5-57, 25-5-68, 25-5-77, and 25-5-80, Code of Alabama 1975, of this act are expressly declared not to be severable. If any provisions of these sections are adjudged to be invalid by any court of competent jurisdiction, then all of the sections shall be invalid and held for naught.

Section 46. All laws or parts of laws which conflict with this act are repealed.

Section 47. The term "Alabama Workmen's Compensation Law," as provided for in the Code of Alabama 1975, shall henceforth be known as "Alabama Workers' Compensation Law."

Section 48. (a) Section 25(h) of this act shall be effective

immediately, however, it shall not be implemented until 30 days after the ascertainment and announcement of the prevailing rates of reimbursements or payments for medical costs, but in no event shall be implemented until the expiration of 60 days after the effective date of this act.

(b) All other sections of this act shall become effective August 1, 1992.

Which was adopted.

Yeas 19 Nays 16

Yeas:

Senators:

Amari, Bennett, Campbell, Corbett, Denton, Figures, Floyd, Foshee, Ghee, Hilliard, Horn, Langford, Lindsey, Mitchell, Parsons, Sanders, Smith (J), Wilson, and Windom -19

Nays:

Senators:

Bailey, Barron, Bedsole, Bolling, deGraffenried, Dial, Dixon, Ellis, Hale, Lipscomb, Little, Mitchem, Owens, Preuitt, Smith (B), and Waggoner -16

And said deGraffenried substitute, as amended, was then adopted.

Yeas 18 Nays 16

Yeas:

Senators:

Bennett, Campbell, Corbett, Denton, Figures, Floyd, Foshee, Ghee, Hilliard, Horn, Langford, Lindsey, Mitchell, Parsons, Sanders, Smith (J), Wilson, and Windom -18

Nays:

Senators:

Bailey, Barron, Bedsole, Bolling, deGraffenried, Dial, Dixon, Ellis, Hale, Lipscomb, Little, Mitchem, Owens, Preuitt, Smith (B), and Waggoner -16

And said Bill, HB 1, as amended by the substitute, as amended, was read a third time at length and passed.

Yeas 18 Nays 17

Yeas:

Senators:

Bennett, Campbell, Corbett, Denton, Figures, Floyd, Foshee, Ghee, Hilliard, Horn, Langford, Lindsey, Mitchell, Parsons, Sanders,

Smith (J), Wilson, and Windom

-18

Nays:

Senators:

Amari, Bailey, Barron, Bedsole, Bolling, deGraffenried, Dial, Dixon, Ellis, Hale, Lipscomb, Little, Mitchem, Owens, Preuitt, Smith (B), and Waggoner

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RECESS

At 9 o'clock P.M., on motion of Senator deGraffenried, the Senate took a recess subject to the call of the Chair.

At 10:35 P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

MESSAGE FROM THE HOUSE

Mr. President:

The House has non-concurred in the Senate Amendment to the Bill:

H. 1. To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 2, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation specialist program, mandatory benefit review conferences, and adjudication of claims by administrative law judges within the Division of Workers' Compensation of the Department of Industrial Relations; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, to repeal Sections 25-5-6, 25-5-12, 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, 25-5-88, 25-5-89, 25-5-91, 25-5-92, 25-5-93, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975; to limit payment of health providers to not more than the prevailing rates of reimbursement for services provided, as specified; to specifically limit claims for mental disorders or injuries to disorders or injuries produced or proximately caused by some physical injury to the body; to provide that gradual deterioration or cumulative physical stress disorders shall be deemed compensable only upon a finding of clear and convincing evidence and to provide further for the statute of limitations for injuries due to cumulative physical stress; to make general contractors liable for workers' compensation benefits for employees of uninsured subcontractors; to

specify the benefits for volunteer fire fighters or rescue squad members; to abolish the second injury trust fund; to extend from one to two years the statute of limitations for compensation for occupational diseases; to establish a workplace safety program for employers; to create a Medical Services Board in the Department of Industrial Relations which will provide for a maximum fee schedule; and to provide for civil immunity for members and employees of the board and to provide for certain implementation dates for various sections of the act.

and requests a Committee on Conference.

And the Speaker of the House has appointed as Conferees on part of the House, Representatives Beasley, Fuller, and McDaniel.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Preuit, the Senate acceded to the request of the House for a Committee on Conference on the disagreement of the two Houses on the Senate amendment to the Bill, HB 1, the title of which is set out in the foregoing Message from the House.

Yeas 32 Nays 0

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuit, Smith (B), Smith (J), Waggoner, and Windom

-32

Nays:

- 0

And the President and Presiding Officer of the Senate appointed as Committee on the part of the Senate, Senators Hale, Floyd, and Lindsey.

RECESS

At 10:45 P.M., on motion of Senator Parsons, the Senate took a recess subject to the call of the Chair.

At 11:59 P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Sen-

ate was present.

REPORT OF SECRETARY

Mr. President:

In accordance with the provisions of Joint Rule 5 of the Senate and House of Representatives, I respectfully report the following Bills and Senate Joint Resolutions delivered to the Governor with the date and hour of delivery, to-wit:

SJR 3	SJR 8	SB 11
SJR 5	SB 8	SB 13
SJR 6	SB 9	SJR 13
SJR 7		

Delivered to the Governor, February 3, 1992, at 3:32 P.M.

SB 12

Delivered to the Governor, February 3, 1992, at 7:50 P.M.

McDOWELL LEE,
Secretary of Senate.

SECRETARY'S REPORT

The foregoing report of the Secretary was read and ordered spread upon the Journal.

**REPORT OF COMMITTEE
ON RULES ON
REVISION OF THE JOURNAL**

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Eighth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

ADJOURNMENT

The hour of Midnight having arrived, on motion of Senator deGraffenried, the Senate adjourned sine die.

McDOWELL LEE,
Secretary of the Senate.

ROSTER OF THE SENATE OF ALABAMA
1992 FIRST EXTRAORDINARY SESSION

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RYAN deGRAFFENRIED, *President Pro-Tempore*, Tuscaloosa
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**DISTRICT NO. 22—CHOCTAW, CLARKE, CONECUH, MARENGO,
MONROE, WASHINGTON****W. H. (Pat) Lindsey.....126 South Mulberry, Butler 36904****DISTRICT NO. 23—CHOCTAW, DALLAS, GREENE, LOWNDES,
PERRY, SUMTER, WILCOX****Henry (Hank) Sanders.....P.O. Box 1305, Selma 36702****DISTRICT NO. 24—AUTAUGA, BIBB, CHILTON, DALLAS****Walter Owens115 Pine Avenue, Centreville 35042****DISTRICT NO. 25—MONTGOMERY****Larry Dixon.....P.O. Box 946, Montgomery 36101****DISTRICT NO. 26—ELMORE, MONTGOMERY****Charles D. Langford918 E. Grove Street, Montgomery 36104****DISTRICT NO. 27—LEE, TALLAPOOSA****T. D. (Ted) LittleP.O. Box 2366, Auburn 36831****DISTRICT NO. 28—BARBOUR, BULLOCK, MACON, RUSSELL****J. Danny Corbett45 Wiggins Lane, Phenix City 36869****DISTRICT NO. 29—GENEVA, HENRY, HOUSTON****Chip Bailey.....P.O. Box 6791, Dothan 36302****DISTRICT NO. 30—BUTLER, CRENSHAW, DALE, PIKE****"Walking" Wendell MitchellP.O. Box 225, Luverne 36049****DISTRICT NO. 31—COFFEE, COVINGTON, ESCAMBIA****E. Crum Foshee.....Alabama State House, Montgomery 36130****DISTRICT NO. 32—BALDWIN, MOBILE****Albert Lipscomb.....P.O. Box 209, Magnolia Springs 36555****DISTRICT NO. 33—MOBILE****Michael A. Figures2317 St. Stephens Road, Mobile 36617****DISTRICT NO. 34—MOBILE****Ann BedsoleP.O. Box 16642, Mobile 36616****DISTRICT NO. 35—MOBILE****Steve WindomP.O. Drawer 2025, Mobile 36652**

**STANDING COMMITTEES
OF THE
ALABAMA STATE SENATE
1992**

ECONOMIC AFFAIRS

Corbett, Chairperson; Lindsey, Vice Chairperson; Amari, Bennett, Campbell.

BANKING AND INSURANCE

Windom, Chairperson; deGraffenried, Vice Chairperson; Amari, Foshee, Ghee, Horn, Smith (B).

RULES

Preuitt, Chairperson; Foshee, Deputy Chairperson; Dial, Vice Chairperson; Amari, Bailey, deGraffenried, Figures, Hale, Mitchem, Smith (B), Smith (J).

HEALTH

Smith (J), Chairperson; Waggoner, Vice Chairperson; Bolling, Dixon, Ghee, Hale, Preuitt, Wilson, Windom.

CONFIRMATIONS

Foshee, Chairperson; Campbell, Vice Chairperson; Corbett, Dial, Preuitt.

FINANCE AND TAXATION/EDUCATION FUND

Horn, Chairperson; Barron, Deputy Chairperson; Mitchem, Vice Chairperson; Bennett, Campbell, deGraffenried, Floyd, Ghee, Hilliard, Langford, Little, Sanders, Smith (J), Waggoner, Wilson.

FINANCE AND TAXATION/GENERAL FUND

Horn, Chairperson; Barron, Deputy Chairperson; Sanders, Vice Chairperson; Bailey, Bolling, Denton, Dixon, Figures, Foshee, Hale, Mitchell, Mitchem, Owens, Smith (B), Windom.

JUDICIARY/CRIMINAL JUSTICE AND PUBLIC SAFETY

Ellis, Chairperson; Smith (J), Vice Chairperson; Bedsole, Floyd, Lindsey, Lipscomb, Little.

JUDICIARY/CIVIL

Parsons, Chairperson; Hale, Vice Chairperson; Ellis, Floyd, Lindsey, Mitchell, Wilson.

GOVERNMENTAL AFFAIRS/STATE ADMINISTRATION

Mitchell, Chairperson; Dixon, Vice Chairperson; Corbett, Langford, Lipscomb, Sanders, Smith (B).

GOVERNMENTAL AFFAIRS/LOCAL GOVERNMENT

Denton, Chairperson; Owens, Vice Chairperson; Ellis, Hale, Lindsey, Little, Sanders.

ENERGY AND NATURAL RESOURCES

Wilson, Chairperson; Foshee, Vice Chairperson; Lindsey, Owens, Preuitt, Waggoner, Windom.

AGRICULTURE, CONSERVATION, AND FORESTRY

Bedsole, Chairperson; Lindsey, Vice Chairperson; Bolling, Denton, Ellis, Lipscomb, Mitchem.

PUBLIC WELFARE

deGraffenried, Chairperson; Ellis, Vice Chairperson; Hale, Owens, Parsons.

EDUCATION

Bennett, Chairperson; Bailey, Vice Chairperson; Bedsole, Floyd, Ghee, Lindsey, Lipscomb, Waggoner, Wilson.

BUSINESS AND LABOR RELATIONS

Mitchem, Chairperson; Smith (B), Vice Chairperson; Bolling, Langford, Owens.

COMMERCE, TRANSPORTATION, AND UTILITIES

Hilliard, Chairperson; Barron, Vice Chairperson; Campbell, deGraffenried, Foshee, Horn, Langford.

STATE DEVELOPMENT AND TOURISM

Langford, Chairperson; Foshee, Vice Chairperson; Barron, Campbell, Mitchell.

SMALL BUSINESS

Owens, Chairperson; Bailey, Vice Chairperson; Barron, Corbett, Dixon.

CONSTITUTION AND ELECTIONS

Ghee, Chairperson; Little, Vice Chairperson; Bennett, Ellis, Parsons.

INDUSTRIAL DEVELOPMENT AND EXPANSION

Dial, Chairperson; Amari, Vice Chairperson; Campbell, Corbett, Denton, Dixon, Windom.

CONSUMER AFFAIRS

Bolling, Chairperson; Floyd, Vice Chairperson; Bailey, Hilliard, Sanders.

LOCAL LEGISLATION NO. 1

Campbell, Chairperson; Mitchell, Vice Chairperson; Corbett, Foshee, Ghee, Sanders, Wilson.

LOCAL LEGISLATION NO. 2

Hilliard, Chairperson; Bennett, Vice Chairperson; Amari, Horn, Parsons, Waggoner.

LOCAL LEGISLATION NO. 3

Figures, Chairperson; Lipscomb, Vice Chairperson; Bedsole, Windom.

SELECT COMMITTEE ON FISCAL RESPONSIBILITY

Barron, Chairperson; Hale, Vice Chairperson; Corbett, Horn, Mitchem.

**1992 COMMITTEE ASSIGNMENTS
ALABAMA STATE SENATE**

15th District**AMARI, JOHN**

Vice Chairperson, Industrial Development and Expansion; Economic Affairs; Banking and Insurance; Rules; Local Legislation No. 2.

29th District**BAILEY, CHIP**

Vice Chairperson, Education; Vice Chairperson, Small Business; Rules; Finance and Taxation/General Fund; Consumer Affairs.

8th District**BARRON, LOWELL**

Chairperson, Select Committee on Fiscal Responsibility; Deputy Chairperson, Finance and Taxation/Education Fund; Deputy Chairperson, Finance and Taxation/General Fund; Vice Chairperson, Commerce, Transportation, and Utilities; State Development and Tourism; Small Business.

34th District**BEDSOLE, ANN**

Chairperson, Agriculture, Conservation, and Forestry; Judiciary/Criminal Justice and Public Safety; Education; Local Legislation No. 3.

19th District**BENNETT, JIM**

Chairperson, Education; Vice Chairperson, Local Legislation No. 2; Economic Affairs; Finance and Taxation/Education Fund; Constitution and Elections.

6th District**BOLLING, GEORGE**

Chairperson, Consumer Affairs; Health; Finance and Taxation/General Fund; Agriculture, Conservation, and Forestry; Business and Labor Relations.

3rd District**CAMPBELL, RAY**

Chairperson, Local Legislation No. 1; Vice Chairperson, Confirmations; Economic Affairs; Finance and Taxation/Education Fund; Commerce, Transportation, and Utilities; State Development and Tourism; Industrial Development and Expansion.

28th District**CORBETT, DANNY**

Chairperson, Economic Affairs; Confirmations; Governmental Affairs/State Administration; Small Business; Industrial Development and Expansion; Local Legislation No. 1, Select Committee on Fiscal Responsibility.

21st District**deGRAFFENRIED, RYAN**

Chairperson, Public Welfare; Vice Chairperson, Banking and Insurance; Rules; Finance and Taxation/Education Fund; Commerce, Transportation, and Utilities.

1st District**DENTON, BOBBY**

Chairperson, Governmental Affairs/Local Government; Finance and Taxation/General Fund; Agriculture, Conservation, and Forestry; Industrial Development and Expansion.

13th District**DIAL, GERALD**

Chairperson, Industrial Development and Expansion; Vice Chairperson, Rules; Confirmations.

25th District**DIXON, LARRY**

Vice Chairperson, Governmental Affairs/State Administration; Health; Finance and Taxation/General Fund; Small Business; Industrial Development and Expansion.

14th District**ELLIS, FRANK**

Chairperson, Judiciary/Criminal Justice and Public Safety; Vice

Chairperson, Public Welfare; Judiciary/Civil; Governmental Affairs/Local Government; Agriculture, Conservation, and Forestry; Constitution and Elections.

33rd District

FIGURES, MICHAEL

Chairperson, Local Legislation No. 3; Rules; Finance and Taxation/General Fund.

10th District

FLOYD, JACK

Vice Chairperson, Consumer Affairs; Finance and Taxation/Education Fund; Judiciary/Criminal Justice and Public Safety; Judiciary/Civil; Education.

31st District

FOSHEE, CRUM

Chairperson, Confirmations; Deputy Chairperson, Rules; Vice Chairperson, Energy and Natural Resources; Vice Chairperson, State Development and Tourism; Banking and Insurance; Finance and Taxation/General Fund; Commerce, Transportation, and Utilities; Local Legislation No. 1.

12th District

GHEE, DOUG

Chairperson, Constitution and Elections; Banking and Insurance; Health; Finance and Taxation/Education Fund; Education; Local Legislation No. 1.

4th District

HALE, DON

Vice Chairperson, Judiciary/Civil; Vice Chairperson, Select Committee on Fiscal Responsibility; Rules; Health; Finance and Taxation/General Fund; Governmental Affairs/Local Government; Public Welfare.

20th District

HILLIARD, EARL

Chairperson, Commerce, Transportation, and Utilities; Chairperson, Local Legislation No. 2; Finance and Taxation/Education Fund; Consumer Affairs.

18th District**HORN, FRED**

Chairperson, Finance and Taxation/Education Fund; Chairperson, Finance and Taxation/General Fund; Banking and Insurance; Commerce, Transportation, and Utilities; Local Legislation No. 2, Select Committee on Fiscal Responsibility.

26th District**LANGFORD, CHARLES**

Chairperson, State Development and Tourism; Finance and Taxation/Education Fund; Governmental Affairs/State Administration; Business and Labor Relations; Commerce, Transportation, and Utilities.

22nd District**LINDSEY, PAT**

Vice Chairperson, Economic Affairs; Vice Chairperson, Agriculture, Conservation, and Forestry; Judiciary/Criminal Justice, and Public Safety; Judiciary/Civil; Governmental Affairs/Local Government; Energy and Natural Resources; Education.

32nd District**LIPSCOMB, ALBERT**

Vice Chairperson, Local Legislation No. 3; Judiciary/Criminal Justice and Public Safety; Governmental Affairs/State Administration; Agriculture, Conservation, and Forestry; Education.

27th District**LITTLE, TED**

Vice Chairperson, Constitution and Elections; Finance and Taxation/Education Fund; Judiciary/Criminal Justice and Public Safety; Governmental Affairs/Local Government.

30th District**MITCHELL, WENDELL**

Chairperson, Governmental Affairs/State Administration; Vice Chairperson, Local Legislation No. 1; Finance and Taxation/General Fund; Judiciary/Civil; State Development and Tourism.

9th District**MITCHEM, HINTON**

Chairperson, Business and Labor Relations; Vice Chairperson, Finance

and Taxation/Education Fund; Rules; Finance and Taxation/General Fund; Agriculture, Conservation, and Forestry, Select Committee on Fiscal Responsibility.

24th District

OWENS, WALTER

Chairperson, Small Business; Vice Chairperson, Governmental Affairs/Local Government; Finance and Taxation/General Fund; Energy and Natural Resources; Public Welfare; Business and Labor Relations.

17th District

PARSONS, MAC

Chairperson, Judiciary/Civil; Public Welfare; Constitution and Elections; Local Legislation No. 2.

11th District

PREUITT, JIM

Chairperson, Rules; Health; Confirmations; Energy and Natural Resources.

23rd District

SANDERS, HANK

Vice Chairperson, Finance and Taxation/General Fund; Finance and Taxation/ Education Fund; Governmental Affairs/State Administration; Governmental Affairs/Local Government; Consumer Affairs; Local Legislation No. 1.

7th District

SMITH, BILL

Vice Chairperson, Business and Labor Relations; Banking and Insurance; Rules; Finance and Taxation/General Fund; Governmental Affairs/State Administration.

2nd District

SMITH, JIM

Chairperson, Health; Vice Chairperson, Judiciary/Criminal Justice and Public Safety; Rules; Finance and Taxation/Education Fund.

16th District

WAGGONER, JABO

Vice Chairperson, Health; Finance and Taxation/Education Fund; Ener-

gy and Natural Resources; Education; Local Legislation No. 2.

5th District

WILSON, ROBERT, JR.

Chairperson, Energy and Natural Resources; Health; Finance and Taxation/Education Fund; Judiciary/Civil; Education; Local Legislation No. 1.

35th District

WINDOM, STEVE

Chairperson, Banking and Insurance; Health; Finance and Taxation/General Fund; Energy and Natural Resources; Industrial Development and Expansion; Local Legislation No. 3.

**HOUSE OF REPRESENTATIVES
1992 FIRST EXTRAORDINARY SESSION
ALPHABETICAL ROSTER AND DISTRICT NUMBER**

Morris Anderson, 8
David Barnes, 58
John Beasley, 85
Jack Biddle, 43
Lucius Black, 67
Marcel Black, 2
Harrell Blakeney, 66
W. C. Bowling, 12
Mike Box, 96
Jenkins Bryant, Jr., 68
June Bugg, 29
Ralph Burke, 24
James E. Buskey, 99
John L. Buskey, 77
Tom Butler, 6
Johnny Cagle, 14
James Campbell, 36
Jim Carns, 46
Joe Carothers, 86
Tommy Carter, 5
James Clark, 84
William Clark, 98
George H. Clay, 82
Sam Collins, 16
Noopie Cosby, 70
Bobby Crow, 35
James T. Cullins, 81
Johnny Curry, 50
Jeff Dolbare, 65
Tom Drake, 11
S. Escott-Russell, 60
Steve Flowers, 89
Joe Ford, 28
Dewayne Freeman, 21
Bill Fuller, 38
Mark L. Gaines, 55
Victor Gaston, 100
J. W. Goodwin, 3
George Grayson, 19
Jane Gullatt, 83

Albert Hall, 22
James Hamilton, 4
Seth Hammett, 92
James Haney, 10
Taylor Harper, 105
Bob Harvey, 27
John H. Hawkins, 48
Clarence Haynes, 32
G. J. Higginbotham, 80
Mike Hill, 41
Thomas E. Hogan, 13
Hugh Holladay, 42
Jimmy W. Holley, 91
Alvin Holmes, 78
Perry Hooper, 73
Ron G. Johnson, 33
Yvonne Kennedy, 103
Al Knight, 40
Ken Kvalheim, 101
Richard Laird, 37
Allen Layson, 15
Sam Letson, 7
Richard J. Lindsey, 39
Nathan Mathis, 87
E. B. McClain, 57
Frank McDaniel, 26
Bobby McDowell, 56
Bob McKee, 74
Steve McMillan, 95
Bryant Melton, 61
Mike Mikell, 76
Mike Millican, 17
Johnny Mack Morrow, 18
Albert J. Morton, 45
Charles Newton, 90
Demetrius Newton, 53
Paul Parker, 9
Tim Parker, 63
Arthur Payne, 44
Walter Penry, 94

George Perdue, 54
 Tony Petelos, 49
 Phil Poole, 62
 Horace W. Powell, 71
 Kerry Rich, 25
 Ben Richardson, 23
 Lois M. Rockhold, 104
 Frank Rogers, 51
 John Rogers, 52
 Howard Sanderford, 20
 Allen Sanderson, 47
 Curtis Smith, 72
 Roy Smith, 30

Lewis Spratt, 59
 Nelson Starkey, 1
 James Thomas, 69
 J. E. Turner, 102
 Pete Turnham, 79
 Jack B. Venable, 31
 Claud Walker, 75
 Jimmy E. Warren, 64
 Frank P. White, 93
 Nolan Williams, 88
 Gerald Willis, 34
 Mary Zoghby, 97

**ROSTER OF THE HOUSE OF REPRESENTATIVES
OF ALABAMA
1992 FIRST EXTRAORDINARY SESSION**

OFFICERS

JAMES S. CLARK, *Speaker*, Eufaula

JAMES M. CAMPBELL, *Speaker Pro Tempore*, Anniston

WILLIAM G. (GREG) PAPPAS, *Clerk*, Montgomery

DON LADNER, *Administrative Assistant*, Montgomery

VANNAH W. NORRELL, *Chief Clerk*, Montgomery

MEMBERS OF THE HOUSE

DISTRICT NO. 1—LAUDERDALE

Nelson R. Starkey, Jr.301 North Pine Street, Florence 35630

DISTRICT NO. 2—COLBERT

Marcel BlackP.O. Box 491, Tuscumbia 35674

DISTRICT NO. 3—COLBERT, LAUDERDALE

J. W. Goodwin.....310 Ford Road, Muscle Shoals 35661

DISTRICT NO. 4—LAUDERDALE, LIMESTONE

James H. Hamilton.....Route 3, Box 119, Rogersville 35652

DISTRICT NO. 5—LIMESTONE

Tommy CarterRoute 2, Box 82, Elkmont 35620

DISTRICT NO. 6—MADISON

Tom Butler.....136 Hartington Drive, Madison 35758

DISTRICT NO. 7—LAWRENCE, MORGAN

Sam Letson3980 Highway 36, Moulton 35650

DISTRICT NO. 8—MORGAN

Morris Anderson1402 Runnymede, Southwest, Decatur 35601

DISTRICT NO. 9-MORGAN

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DISTRICT NO. 11-CULLMAN, MORGAN

Tom DrakeP.O. Box 1165, Cullman 35055

DISTRICT NO. 12-CULLMAN

W. C. BowlingRoute 2, Box 349, Hanceville 35077

DISTRICT NO. 13-WALKER

Thomas E. Hogan.....300 12th Avenue, N.E., Jasper 35501

DISTRICT NO. 14-TUSCALOOSA, WALKER

Johnny CagleRoute 2, Box 105, Nauvoo 35578

DISTRICT NO. 15-PICKENS, TUSCALOOSA

Allen LaysonP.O. Box 910, Reform 35481

DISTRICT NO. 16-FAYETTE, LAMAR, MARION

Sam Collins.....113 22nd Street N.W., Fayette 35555

DISTRICT NO. 17-MARION, WINSTON

Mike MillicanRoute 1, Box 71, Hamilton 35570

DISTRICT NO. 18-FRANKLIN, MARION

Johnny Mack MorrowRoute 6, Box 262A, Russellville 35653

DISTRICT NO. 19-MADISON

George Grayson.....P.O. Box 38, Normal 35762

DISTRICT NO. 20-MADISON

Howard Sanderford.....908 Tannahill Drive, Huntsville 35802-1971

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Dewayne Freeman.....114 East Becky Circle, Meridianville 35759

DISTRICT NO. 22-JACKSON, MADISON

Albert Hall.....Route 1, P.O. Box 275, Gurley 35748

DISTRICT NO. 23-JACKSON

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DISTRICT NO. 24—DEKALB

Ralph BurkeP.O. Box 1564, Rainsville 35986

DISTRICT NO. 25—MARSHALL

Kerry Rich107 Stoddard Circle, Arab 35016

DISTRICT NO. 26—DEKALB, MARSHALL

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DISTRICT NO. 27—BLOUNT

Bob Harvey.....Route 5, Box 4998, Oneonta 35121

DISTRICT NO. 28—ETOWAH

Joe M. FordGadsden State Community College
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DISTRICT NO. 29—ETOWAH

June Bugg610 South Fifth Street, Gadsden 35901

DISTRICT NO. 30—ETOWAH, ST. CLAIR

Roy E. Smith208 Robin Circle, Gadsden 35901

DISTRICT NO. 31—COOSA, ELMORE

Jack B. VenableP.O. Box 736, Tallassee 36078

DISTRICT NO. 32—TALLADEGA

Clarence Haynes.....P.O. Box 1041, Talladega 35160

DISTRICT NO. 33—TALLADEGA

Ronald G. Johnson.....Route 5, Box 17, Sylacauga 35150

DISTRICT NO. 34—CALHOUN

Gerald Willis15695 Alabama Highway 9, South
Piedmont 36272

DISTRICT NO. 35—CALHOUN

Bobby C. Crow150 Huckelberry Ridge, Anniston 36201

DISTRICT NO. 36—CALHOUN

James M. Campbell.....P.O. Box 2003, Anniston 36202

DISTRICT NO. 37—CHAMBERS, RANDOLPH, CLAY

Richard Laird1507 Bonner Drive, Roanoke 36274

DISTRICT NO. 38—CHAMBERS

Bill Fuller118 South LaFayette Street, LaFayette 36862

DISTRICT NO. 39—CHEROKEE, CLEBURNE, DEKALB

Richard J. Lindsey.....Route 2, Box 394, Centre 35960

DISTRICT NO. 40—BIBB, SHELBY

Al Knight.....2969 M. Montgomery Highway, Pelham 35124

DISTRICT NO. 41—SHELBY

Michael HillP.O. Box 1478, Columbiana 35051-148

DISTRICT NO. 42—ST. CLAIR

Hugh HolladayP.O. Box J, Pell City 35125

DISTRICT NO. 43—JEFFERSON

Jack Biddle, III2256 Pinehurst Drive, Gardendale 35071

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Arthur Payne ...2825 Second Street, Northwest, Birmingham 35215

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DISTRICT NO. 46—JEFFERSON

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DISTRICT NO. 47—JEFFERSON

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DISTRICT NO. 48—JEFFERSON

John H. Hawkins, Jr.1841 Montclair Drive, Birmingham 35216

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DISTRICT NO. 50—JEFFERSON

Johnny Curry3264 Fieldale Drive, Hueytown 35023

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DISTRICT NO. 54—JEFFERSON

George PerdueP.O. Box 2473, Birmingham 35201

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DISTRICT NO. 56—JEFFERSON

Bobbie G. McDowell2322 Dartmouth Avenue, Bessemer 35020

DISTRICT NO. 57—JEFFERSON

E. B. McClain3826 Troy Terrace, Brighton 35020

DISTRICT NO. 58—JEFFERSON

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DISTRICT NO. 59—JEFFERSON

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Birmingham 35207

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DISTRICT NO. 61—TUSCALOOSA

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Phil Poole.....P.O. Box 609, Moundville 35474

DISTRICT NO. 63—TUSCALOOSA

Tim Parker.....P.O. Box 020908, Tuscaloosa 35402-0908

DISTRICT NO. 64—CONECUH, MONROE

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DISTRICT NO. 65—CLARKE, WASHINGTON

Jeff Dolbare.....Star Route, Box 17, Bigbee 36510

DISTRICT NO. 66—CHOCTAW, CLARKE, MARENGO

Harrell Blakeney1101 Old Highway 5, South
Thomasville 36784

DISTRICT NO. 67—CHOCTAW, GREENE, SUMTER

Lucius Black, Sr.P.O. Box 284, York 36925

DISTRICT NO. 68—DALLAS, PERRY, HALE

Jenkins Bryant, Jr.Route 1, Box 482, Newbern 36765

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James L. Thomas2713 Highway 14, E., Selma 36701

DISTRICT NO. 70—DALLAS

W. F. Cosby, Jr.P.O. Box 683, Selma 36702

DISTRICT NO. 71—AUTAUGA, CHILTON

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Prattville 36067

DISTRICT NO. 72—BIBB, CHILTON

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DISTRICT NO. 73—MONTGOMERY

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Montgomery 36111

DISTRICT NO. 74—MONTGOMERY

Bob McKeeP.O. Box 424, Montgomery 36101

DISTRICT NO. 75—MONTGOMERY

Claud Walker.....P.O. Box 250477, Montgomery 36125

DISTRICT NO. 76—ELMORE, MONTGOMERY

Mike MikellP.O. Box 993, Millbrook 36054

DISTRICT NO. 77—MONTGOMERY

John L. BuskeyP.O. Box 6216, Montgomery 36106

DISTRICT NO. 78—MONTGOMERY

Alvin HolmesP.O. Box 6064, Montgomery 36106

DISTRICT NO. 79—LEE

Pete TurnhamP.O. Box 3490, Auburn 36830

DISTRICT NO. 80—LEE

G. J. HigginbothamP.O. Box 2545, Opelika 36803

DISTRICT NO. 81—TALLAPOOSA

James T. CullinsP.O. Box 5, Alexander City 35010

DISTRICT NO. 82—BULLOCK, MACON

George H. ClayP.O. Box 299, Tuskegee 36083

DISTRICT NO. 83—RUSSELL

Jane Gullatt.....P.O. Box 626, Phenix City 36867

DISTRICT NO. 84—BARBOUR, RUSSELL

James S. ClarkP.O. Box 71, Eufaula 36027

DISTRICT NO. 85—HENRY, HOUSTON

John P. BeasleyP.O. Drawer M, Columbia 36319

DISTRICT NO. 86—HOUSTON

Joe Carothers, Jr.Route 8, Box 33, Dothan 36301

DISTRICT NO. 87—GENEVA, HOUSTON

Nathan Mathis.....Route 2, Box 317, Wicksburg 36352

DISTRICT NO. 88—DALE

Nolan WilliamsTroy State University, Dothan
P.O. Box 8368, Dothan 36304

DISTRICT NO. 89—PIKE, DALE

J. Steve FlowersP.O. Box 973, Troy 36081

DISTRICT NO. 90—BUTLER, CRENSHAW

Charles NewtonP.O. Box 246, Greenville 36037

DISTRICT NO. 91—COFFEE

Jimmy W. Holley.....Route 2, Box 254-E, Elba 36323

DISTRICT NO. 92—COVINGTON

Seth Hammett.....P.O. Box 1418, Andalusia 36420

DISTRICT NO. 93—ESCAMBIA

Frank P. White.....Route 1, Box 427-Pollard, Flomaton 36441

DISTRICT NO. 94—BALDWIN

Walter E. Penry, Jr.....12040 County Road 54, Daphne 36526

DISTRICT NO. 95—BALDWIN

Steve McMillanP.O. Box 337, Bay Minette 36507

DISTRICT NO. 96—MOBILE

Mike Box155 South Warren Street, Mobile 36602

DISTRICT NO. 97—MOBILE

Mary S. Zoghby2862 Hilburn Drive, Mobile 36606

DISTRICT NO. 98—MOBILE

William Clark711 Atmore Avenue, Prichard 36612

DISTRICT NO. 99—MOBILE

James E. Buskey.....2207 Barretts Lane, Mobile 36617

DISTRICT NO. 100—MOBILE

Victor Gaston864 West Parkwood Drive, Mobile 36608

DISTRICT NO. 101—MOBILE

Ken Kvalheim.....421 Dogwood Drive, Mobile 36609

DISTRICT NO. 102—MOBILE

J. E. Turner.....P.O. Box 787, Citronelle 36522

DISTRICT NO. 103—MOBILE

Yvonne Kennedy.....1205 Glennon Avenue, Mobile 36603

DISTRICT NO. 104—MOBILE

Lois M. Rockhold5163 Santos Drive, East, Mobile 36619

DISTRICT NO. 105—MOBILE

Taylor Harper.....P.O. Box 229, Grand Bay 36541

**STANDING COMMITTEES
OF THE ALABAMA
HOUSE OF REPRESENTATIVES
1992**

AGRICULTURE, FORESTRY AND NATURAL RESOURCES

Lindsey, Chairperson; Smith (C), Vice Chairperson; Barnes, Blakeney, Bryant, Dolbare, Hamilton, Letson, Mathis, Powell, Richardson, Sanderford, Smith (R), Warren, White.

BANKING

Zoghby, Chairperson; Hawkins, Vice Chairperson; Beasley, Cosby, Escott-Russell, Ford, Gaines, Hammett, Hill, Holladay, Morrow, Newton (C), Perdue, Petelos, Thomas.

BUSINESS AND LABOR

Beasley, Chairperson; McDaniel, Vice Chairperson; Cagle, Carter, Cullins, Fuller, Gaines, Kennedy, Laird, Layson, McMillan, Melton, Payne, Smith (R), Spratt.

COMMERCE, TRANSPORTATION AND UTILITIES

Hooper, Chairperson; Box, Vice Chairperson; Black (L), Burke, Cagle, Ford, Gaston, Gullatt, Hammett, Lindsey, Parker (T), Perdue, Rogers (J), Sanderson, Zoghby.

CONSTITUTION AND ELECTIONS

McDowell, Chairperson; Campbell, Vice Chairperson; Anderson, Black (M), Bowling, Box, Curry, Flowers, McMillan, Newton (C), Rockhold, Smith (C), Thomas, Venable, Walker.

EDUCATION

Parker (P), Chairperson; Bugg, Vice Chairperson; Clark (W), Dolbare, Hawkins, Hill, Holladay, Holmes, Melton, Millican, Morrow, Poole, Powell, Smith (C), Zoghby.

HEALTH

Carothers, Chairperson; Johnson, Vice Chairperson; Beasley, Biddle, Bowling, Butler, Drake, Flowers, Freeman, Hall, Haynes, Kvalheim, McClain, McDowell, Rockhold.

HIGHWAY SAFETY

Spratt, Chairperson; Rich, Vice Chairperson; Carns, Crow, Curry, Drake, Laird, Layson, Morton, Parker (T), Richardson, Rogers (F), Turner, Walker, Willis.

INDUSTRIAL DEVELOPMENT AND ECONOMIC GROWTH

Butler, Chairperson; Kvalheim, Vice Chairperson; Black (M), Cosby, Drake, Harvey, Holley, Hooper, Kennedy, McKee, Newton (D), Rogers (F), Sanderson, Venable, Williams.

INSURANCE

Flowers, Chairperson; Buskey (JE), Vice Chairperson; Carns, Clay, Hall, Haney, Holley, Lindsey, McDaniel, McKee, Powell, Rockhold, Spratt, Venable, Williams.

JUDICIARY

Higginbotham, Chairperson; Rogers (F), Vice Chairperson; Anderson, Barnes, Black (L), Black (M), Box, Buskey (JL), Campbell, Gaines, Holladay, Johnson, Kvalheim, Newton (D), Petelos.

LOCAL GOVERNMENT

Gullatt, Chairperson; Warren, Vice Chairperson; Buskey (JL), Carothers, Escott-Russell, Hamilton, Higginbotham, Hill, Knight, Laird, Letson, Newton (C), Richardson, Willis.

MILITARY AFFAIRS

Fuller, Chairperson; Turnham, Vice Chairperson; Biddle, Blakeney, Crow, Gaston, Goodwin, Haney, Knight, McKee, Mikell, Payne, Sanderford, Walker, Willis.

OIL AND GAS

Gaston, Chairperson; Freeman, Vice Chairperson; Buskey (JE), Butler, Clark (W), Dolbare, Haney, Higginbotham, Hogan, Kvalheim, Millican, Penry, Rogers (J), Turner, White.

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Bryant, Chairperson; Newton (D), Vice Chairperson; Anderson, Bugg, Cagle, Cullins, Grayson, Gullatt, Holmes, Mikell, Morton, Parker (P), Perdue, Rich, Vacancy.

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TOURISM, ENTERTAINMENT AND SPORTS

Ford, Chairperson; McClain, Vice Chairperson; Barnes, Bowling, Burke, Freeman, Hall, Harper, Hooper, Letson, Mathis, Penry, Petelos, Thomas, Williams.

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LOCAL LEGISLATION NO. 2

Petelos, Chairperson; Spratt, Vice Chairperson; Barnes, Biddle, Carns, Curry, Escott-Russell, Gaines, Hawkins, McClain, McDowell, Morton, Newton (D), Payne, Perdue, Rogers (F), Rogers (J), Sanderson.

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JOURNAL
OF THE
SENATE
OF THE
STATE OF ALABAMA
REGULAR SESSION
OF 1992

HELD IN THE CITY OF MONTGOMERY
COMMENCING TUESDAY, FEBRUARY 4, 1992



Vol. 1

WITH AN INDEX PREPARED BY THE
SECRETARY OF THE SENATE

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2. A listing of legislative days, with calendar dates and pages on which each day begins;
3. A topic index of general bills listed alphabetically by subject matter;
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**JOURNAL
OF THE
SENATE
OF THE
STATE OF ALABAMA
REGULAR SESSION
OF 1992**

**FIRST LEGISLATIVE DAY
TUESDAY, FEBRUARY 4, 1992**

This being the first Tuesday in February, A.D., 1991, and the day fixed by law and the Constitution of the State of Alabama for the annual meeting of the Legislature of Alabama:

The Senate of Alabama assembled in the Senate Chamber in the City of Montgomery at 12 o'clock Noon, and was called to order by Lieutenant Governor Folsom, President and Presiding Officer of the Senate.

McDowell Lee, Secretary, was present and acted as such according to law.

PRAYER

The Session was opened with prayer by the Reverend Hayden Center, Pastor, Heritage Baptist Church, Montgomery, Alabama.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of

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the United States of America by Craig Hill, St. James School, Montgomery, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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LEAVE OF ABSENCE

On motion of Senator deGraffenried, leave of absence was granted Senators Barron, Floyd, Hilliard, and Sanders for today.

RESOLUTIONS

Senator deGraffenried offered the following Senate Joint Resolution, to-wit:

SJR 1. COMMITTEE APPOINTED TO NOTIFY GOVERNOR THAT LEGISLATURE IS IN SESSION.

BE IT RESOLVED BY THE SENATE OF ALABAMA, THE HOUSE OF REPRESENTATIVES CONCURRING, That a committee of three members of the Senate, to be named by the Presiding Officer of the Senate, and three members of the House, to be named by the Speaker of the House, be appointed to notify the Governor that the Legislature is now in session and is ready for the transaction of business.

On motion of Senator deGraffenried, the Rules were suspended and the Resolution was adopted by the Senate.

And the President and Presiding Officer of the Senate appointed as Committee on part of the Senate to notify the Governor, Senators Wilson, Windom, and Langford.

Senator deGraffenried then offered the following Senate Joint Resolution, to-wit:

SJR 2. COMMITTEE APPOINTED TO ESCORT GOVERNOR TO JOINT SESSION OF THE LEGISLATURE.

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BE IT RESOLVED BY THE SENATE OF ALABAMA, THE HOUSE OF REPRESENTATIVES CONCURRING, That a joint session of the House and Senate be held at 6:30 P.M. on February 4, 1992, for the purpose of hearing the message of the Honorable Guy Hunt, Governor of Alabama.

AND BE IT FURTHER RESOLVED, That a committee of three from the Senate, to be named by the Presiding Officer of the Senate, and three from the House, to be named by the Speaker of the House, be appointed to wait upon the Governor and advise him for the purpose of receiving his message, and that said committee also serve as a committee to escort the Governor to the House for the joint session.

On motion of Senator deGraffenried, the Rules were suspended and the Resolution was adopted by the Senate.

And the President and Presiding Officer of the Senate appointed as Committee on part of the Senate to escort the Governor, Senators Dixon, Owens, and Bedsole.

Senator deGraffenried then offered the following Senate Joint Resolution, to-wit:

SJR 3. RELATIVE TO THE PRINTING OF THE ACTS AND JOURNALS.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the acts and journals of this Regular Session in 1992, be bound together with the First Special Session in 1992.

On motion of Senator deGraffenried, the Rules were suspended and the Resolution was adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

I have been directed by the House to advise the Senate that the House is now in session and is ready for the transaction of public business.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Campbell:

HJR 2. COMMITTEE APPOINTED TO NOTIFY GOVERNOR LEGISLATURE IS IN SESSION.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That a committee of six, consisting of three members of the Senate to be appointed by the presiding officer of the Senate, and three members on the part of the House to be appointed by the Speaker, be appointed to notify the Governor of Alabama that the Legislature is now in session and is ready for the transaction of business.

And the Speaker has appointed as a committee on the part of the House, Representatives Sanderson, Hawkins, and Petelos.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator deGraffenried, the Rules were suspended and the Resolution, HJR 2, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

And the President and Presiding Officer of the Senate appointed as Committee on part of the Senate to notify the Governor, Senators Wilson, Windom, and Langford.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Campbell:

HJR 3. INVITATION FOR JOINT ADDRESS.

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BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That a joint session of the House and Senate be held at 6:30 P.M. on February 4, 1992, for the purpose of hearing the message of the Honorable Guy Hunt, Governor of Alabama.

BE IT FURTHER RESOLVED, That a committee of three from the House to be named by the Speaker of the House, and a committee of three from the Senate to be named by the Presiding Officer of the Senate, be appointed to wait upon the Governor and advise him that the two Houses will meet in joint session at the hour named above, for the purpose of receiving his message, and that said Committee also serve as a Committee to escort the Governor to the House for the joint session.

And the Speaker of the House has appointed as a committee on the part of the House, Representatives Sanderson, Hawkins, and Petelos.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator deGraffenried, the Rules were suspended and the Resolution, HJR 3, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

And the President and Presiding Officer of the Senate appointed as Committee on part of the Senate to notify the Governor, Senators Dixon, Owens, and Bedsole.

RESOLUTION

Senator Bedsole offered the following Senate Joint Resolution, to-wit:

SJR 4. EXTENDING THE TASK FORCE ON CHILDREN'S REHABILITATION SERVICES AS RECOMMENDED IN THE REPORT FILED JULY 29, 1991 BY THE JOINT LEGISLATIVE COMMITTEE ON THE CRISIS IN CHILDREN'S REHABILITATION SERVICES.

WHEREAS, The Task Force on Children's Rehabilitation Services as created by the Joint Legislative Committee on the crisis in children's rehabilitation services, established by the Alabama Legislature, has had many meetings, hearings and its members have conducted a study into

the facets of the proposed or threatened termination of services to the children of this state needing rehabilitation and other medical services provided through the Children's Rehabilitation Services (CRS);

WHEREAS, The task force is composed of committed individuals who have successfully identified problem areas and made recommendations for improvements because of their expertise in the various requisite fields; and

WHEREAS, It is in the best interest of the Alabama Legislature and the citizens of Alabama to have this task force conduct additional studies and research into its area of responsibilities; and

WHEREAS, The task force will continue to oversee the operations of Children' Rehabilitation Services and present their findings to the Legislature and advise them on the progress being made to implement the recommendations of the task force; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, To continue this task force until the 30th legislative day of the 1994 Regular Session in which time Children's Rehabilitation Services will be expected to make positive changes.

On motion of Senator Bedsole, the Rules were suspended and the Resolution was adopted by the Senate.

INTRODUCTION OF BILLS

The following Bills, having been pre-filed with the Secretary of the Senate under the provisions of Joint Rule 10, were severally read one time, and previous referrals by the President and Presiding Officer to appropriate Standing Committees were confirmed, as follows:

By Senator Ellis:

S. 1. Proposing an amendment to Section 46 of the Constitution of 1901, relating to the elections and terms of office for state Senators and members of the state House of Representatives, so as to limit the legislative terms.

Committee on Constitution
and Elections

The above Bill was read a first time at length as required by the Constitution.

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By Senators Foshee, Bennett, Little, Dixon, Wilson, Bolling, Owens, Waggoner, Lindsey, Dial, Barron, Figures, Campbell, Hale, Parsons, and Ellis:

S. 2. To propose a self-executing amendment to the Alabama Constitution of 1901, relative to setting the dates, times and length of an organizational, annual regular, annual budget and any special session of the Alabama Legislature; to provide for superseding Constitutional Amendment No. 339; to repeal Constitutional Amendment No. 448; and to provide for a constitutional election on the proposed amendment.

Committee on Public Welfare

The above Bill was read a first time at length as required by the Constitution.

By Senator Amari:

S. 3. To prohibit a person from providing anything of value to a person receiving a scholarship or grant to attend a state institution, or for a person receiving a scholarship or grant to attend a state institution to accept anything of value, if receipt of that thing of value is in violation of the rules of the school or the rules, terms, and conditions of any association of which the school is a member; and to prescribe criminal penalties for violating this act.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senators Foshee, Little, Bolling, Owens, Waggoner, Wilson, Lindsey, Dial, Bennett, Barron, Figures, Campbell, Hale, and Parsons:

S. 4. To amend Section 41-19-7 of the Code of Alabama 1975, relating to the presentation of the proposed budget by the Governor.

Committee on Public Welfare

By Senator Little:

S. 5. To amend Section 22-14-5, Code of Alabama 1975, which provides for the members of the radiation advisory board of health, so as to include a veterinarian on the board.

Committee on Health

By Senator Little:

S. 6. To provide that any member of the employees' retirement system of Alabama, who, not more than one year prior to becoming a member of the said system, was a member of the judicial retirement fund, may elect to transfer his creditable service and accumulated contributions from the judicial retirement fund to the employees' retirement system.

Committee on Finance
and Taxation

By Senator Langford:

S. 7. To amend Section 36-27-49.3 of the Code of Alabama 1975, as amended, relating to the purchase of military service for creditable service in the employees' or teachers' retirement system who have met minimum vesting requirements, so as to add members of the judicial retirement system.

Committee on Finance
and Taxation

By Senator Ellis (With Notice and Proof):

S. 8. Relating to the City of Helena in Shelby County; to establish a civil service system and to provide for classified services; to establish a personnel board and to provide for the appointment, term, and powers of board members; to provide for the establishment of a register and filling of vacancies; and to provide penalties.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 8, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Lindsey (With Notice and Proof):

S. 9. Relating to the City of Linden in Marengo County, to establish an investment trust fund to receive certain proceeds derived from a sale/purchase agreement between the City of Linden, the utilities

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board of the City of Linden and Alabama Gas Corporation, and from other lawful sources; to provide for legal investments for said fund; and to provide procedures for the expenditure of interest and principal from said fund.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 9, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Sanders:

S. 10. To provide that county commissions which are currently elected from single-member districts may alter the boundaries of their respective districts.

Committee on Governmental
Affairs/Local Government

By Senator Hale:

S. 11. To amend Section 15-22-54 of the Code of Alabama 1975, relating to arrest and disposition of person violating terms of probation so as to allow the execution of a sentence be maintained, amended or revoked; and to provide that the court may modify the imprisonment period originally pronounced.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Little:

S. 12. To amend Section 36-21-70 of the Code of Alabama 1975, relating to the Peace Officers' Annuity and Benefit Fund so as to allow retirement upon completion of 25 years of qualified service, regardless of age.

Committee on Finance
and Taxation

By Senator Little:

S. 13. Increasing benefits provided under the Peace Officers'

Annuity and Benefit Fund by amending Section 36-21-70 of the Code of Alabama 1975, retroactive to November 1, 1991.

Committee on Finance
and Taxation

By Senator Langford:

S. 14. To permit the State Youth Services Director to appoint or employ persons to serve as police officers for the Department of Youth Services and specify the powers and duties of the officers.

Committee on Governmental
Affairs/State Administration

By Senator Langford:

S. 15. To amend Section 41-4-113 of the Code of Alabama 1975, relating to procedures for purchase of materials and supplies by state departments.

Committee on Governmental
Affairs/State Administration

By Senator Denton:

S. 16. Providing for distinctive motor vehicle license tags or plates for supporters of "Square and Round Dance"; prescribing the fees for these tags and plates; providing for disposition of the net proceeds from the fees, and providing for a delayed effective date.

Committee on Finance
and Taxation

By Senator Denton:

S. 17. To establish the "Alabama Pawnshop Act"; to provide for certain definitions; to provide for the pawnshop charge which may be charged by a pawnbroker; to provide for exceptions; to provide that amounts in excess of the pawnshop charge shall be uncollectible and shall void the pawn transaction; to provide for dates of payment; to provide for prohibited acts by pawnbrokers; to provide for the duties of pawnbrokers; to provide for inspection by certain law enforcement officers; to provide for liens for pawnbrokers; to provide for the redemption or automatic forfeiture of pledged goods; to provide for the satisfac-

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tion of liens of pawnbrokers; to provide penalties for violations of this act; and to repeal sections 8-1-80 through 8-1-84, Code of Alabama 1975.

Committee on Governmental
Affairs/Local Government

By Senator Bolling:

S. 18. Providing for the establishment and incorporation of the "West Alabama Toll Road Authority" and authorizing it to finance, purchase, construct, and operate a certain four-lane toll road down the western side of the state; and prescribing penalties.

Committee on Industrial
Development and Expansion

By Senator Smith (B):

S. 19. To provide for mandatory errors and omissions insurance coverage for all active real estate licensees; to authorize the real estate commission to contract for such coverage in compliance with state competitive bid laws; to allow optional coverage by any insurance carrier which meets minimum standards; to provide that no such coverage shall be required when it is not available at a reasonable premium and to authorize such commission to promulgate and implement administrative rules and procedures to carry out the provisions of this act.

Committee on Banking
and Insurance

By Senator Corbett:

S. 20. To provide for the regulation of elevators, dumbwaiters, escalators, moving walks, manlifts, and associated facilities and equipment; and to provide for penalties for violations.

Committee on Governmental
Affairs/State Administration

By Senator Parsons (With Notice and Proof):

S. 21. To authorize the Board of Managers of the City of Birmingham Retirement and Relief System to consider the application of Donald C. Waid for a pension based upon extraordinary disability and to

award such pension if, in the judgment of the Board of Managers, such pension is required, and to provide for the conditions and limitations applying to such pension.

Committee on Local
Legislation No. 2

I hereby certify that the notice and proof is attached to the Bill, SB 21, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Parsons (With Notice and Proof):

S. 22. To amend Act No. 929, S. 676, 1951 Regular Session, as amended, which created a Retirement and Relief System for officers and employees of the City of Birmingham, so as to provide benefits for surviving spouses of participants of the Supplemental Pension System and to provide for retroactive effect.

Committee on Local
Legislation No. 2

I hereby certify that the notice and proof is attached to the Bill, SB 22, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Bennett:

S. 23. Creating the Impaired Drivers Trust Fund in the state treasury to provide rehabilitative services to residents of the state with certain types of injuries.

Committee on Governmental
Affairs/State Administration

By Senator Figures (With Notice and Proof):

S. 24. Relating to Mobile County; to amend Act No. 86-545, S. 655, 1986 Regular Session, which creates a County Racing Commission, to delete the residency requirements for certain applicants, owners, and employees; to alter the permissible number of racing days; to authorize a

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licensee to receive and transmit certain racing broadcasts and to provide that wagering on broadcasts shall be subject to the same commissions as live racing; to further provide for the tax on the contributions to all pari-mutuel pools, the licensees' amount of commission, and the distribution of amounts due on outstanding unredeemed mutuel tickets; to require certain funds be used for capital improvements; to provide further for the distribution of monies received under this act; and to regulate the expenditures of the commission.

Committee on Local
Legislation No. 3

I hereby certify that the notice and proof is attached to the Bill, SB 24, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Foshee:

S. 25. To amend Sections 27-13-66 and 27-13-72 of the Code of Alabama 1975, relating to the filing of certain statistical and financial data or reports by casualty insurance carriers with the Department of Insurance pursuant to a request for a rate adjustment; to require that those data or reports filed by workmen's compensation carriers be made available to the public by the Department of Insurance, upon request, at any time after the filing.

Committee on Banking
and Insurance

By Senator Foshee:

S. 26. Relating to insurance rates approved for workmen's compensation insurance carriers; to provide further for those rates.

Committee on Banking
and Insurance

By Senator Ghee:

S. 27. To amend Section 16-52-12 of the Code of Alabama 1975, as amended, relating to the powers of law enforcement officers on the campus of Jacksonville State University and criminal procedure for certain offenses committed on the grounds and in buildings of the

university, so as to allow process through the nearest municipal as well as district court.

Committee on Judiciary/Civil

By Senator Ghee:

S. 28. Relating generally to crimes involving child abuse; to amend section 26-15-3, Code of Alabama 1975, relating to acts of abuse by a responsible person upon a child under the age of 18 years, so as to define further such acts and to prescribe a felony penalty and a misdemeanor penalty for such defined prohibited acts; and to provide for the new offense of sexual torture, to define the offense, and to provide a felony punishment for such offense.

Committee on Judiciary/Civil

By Senator Dial:

S. 29. To amend Section 28-3-55 of the Code of Alabama 1975, relating to the "cost of evidence fund" of the Alcoholic Beverage Control Board, to increase the monetary amount at which the fund shall be maintained.

Committee on Finance
and Taxation

By Senator Dial:

S. 30. To amend Section 20-2-90 of the Code of Alabama 1975, to authorize that the agents and officers of the Alcoholic Beverage Control Board also enforce the Alabama Uniform Controlled Substance Act.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senators Dial, Barron, Waggoner, Owens, Mitchem, Lipscomb, Little, Bedsole, Ellis, Preuitt, Denton, and Bolling:

S. 31. Providing certain educational assistance benefits for certain active members of the Alabama national guard.

Committee on Finance
and Taxation

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By Senators Parsons and Floyd:

S. 32. Regulating air travel by public officers and employees; providing for sale of state owned aircraft and disposition of the proceeds from the sale.

Committee on Governmental
Affairs/State Administration

By Senator Windom (With Notice and Proof):

S. 33. Relating to Mobile County; requiring the Mobile County Commission to call for a referendum on the question of location or acceptance of any privately-owned or controlled regional landfill within the county prior to such location or acceptance.

Committee on Local
Legislation No. 3

I hereby certify that the notice and proof is attached to the Bill, SB 33, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Windom (With Notice and Proof):

S. 34. Relating to Mobile County and the location or construction of a solid waste landfill or solid waste landfill facility within the county or within any municipality therein; amending Section 1 of Act No. 86-480, H. 631 of the 1986 Regular Session (Acts 1986, p. 914), relating to such sitings, so as to prohibit the county commission or any municipal governing body from permitting any solid waste landfill or solid waste landfill facility to be situated within one mile of any existing or proposed school site; and providing exceptions.

Committee on Local
Legislation No. 3

I hereby certify that the notice and proof is attached to the Bill, SB 34, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senator Corbett:

S. 35. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Real Estate Commission with certain modifications; to amend Sections 34-27-2, 34-27-7, 34-27-8, 34-27-31, 34-27-32, 34-27-33, 34-27-34, 34-27-35, and 34-27-36, Code of Alabama 1975.

Committee on Economic Affairs

By Senator Corbett:

S. 36. Relating to the Alabama Sunset Law; to continue the existence and functioning of the State Pilotage Commission.

Committee on Economic Affairs

By Senator Corbett:

S. 37. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Examiners of Mine Personnel.

Committee on Economic Affairs

By Senator Corbett:

S. 38. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Social Work Examiners with certain modifications; to amend Sections 34-30-4, 34-30-50, and 34-30-52, Code of Alabama 1975.

Committee on Economic Affairs

By Senator Corbett:

S. 39. Relating to the Alabama Sunset Law; to terminate the existence and functioning of the Examining Board for Professional Entomologists, Plant Pathologists, Horticulturists, Floriculturists, and Tree Surgeons; to transfer the duties of the Board to the Commissioner of Agriculture and Industries, and to amend Sections 2-28-1 to 2-28-5,

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inclusive, and 2-28-8 of the Code of Alabama 1975.

Committee on Economic Affairs

By Senator Corbett:

S. 40. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Liquefied Petroleum Gas Board with certain modifications; and to amend Sections 9-17-101, 9-17-104, 9-17-105, and 9-17-107, Code of Alabama 1975.

Committee on Economic Affairs

By Senator Corbett:

S. 41. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Telecommunications Division of the Department of Finance with certain modifications; to amend Section 41-4-284, Code of Alabama 1975, to require the destruction of all telephone records six months following the payment of the billing for the telephone usage.

Committee on Economic Affairs

By Senator Corbett:

S. 42. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Public Service Commission.

Committee on Economic Affairs

By Senator Corbett:

S. 43. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Public Accountancy with certain modifications; to amend Sections 34-1-4, 34-1-11, and 34-1-12, Code of Alabama 1975.

Committee on Economic Affairs

By Senator Corbett:

S. 44. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Securities Commission with certain modifications; to amend Sections 8-6-53, 8-6-110, 8-6-111,

8-6-113, 8-6-115, 8-6-116, 8-6-118, and 8-6-119, Code of Alabama 1975.

Committee on Economic Affairs

By Senator Corbett:

S. 45. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Heating and Air Conditioning Contractors with certain modifications; to amend Sections 34-31-18, 34-31-21, 34-31-26, 34-31-29, and 34-31-32, Code of Alabama 1975.

Committee on Economic Affairs

By Senator Corbett:

S. 46. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Examiners in Psychology with certain modifications; to amend Section 34-26-21, Code of Alabama 1975.

Committee on Economic Affairs

By Senator Corbett:

S. 47. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Auctioneers with certain modifications; to amend Sections 34-4-21, 34-4-29, and 34-4-50, Code of Alabama 1975.

Committee on Economic Affairs

By Senator Corbett:

S. 48. Relating to the Alabama Sunset Law; to terminate the existence and functioning of the Alcoholic Beverage Control Board, effective October 1, 1993; to require the board to submit a plan to the Alabama Sunset Committee 30 days prior to the 1993 regular legislative session to remove the board from the wholesale and retail sale of alcoholic beverages in Alabama; and to authorize a fee for denatured alcohol manufacturers.

Committee on Economic Affairs

By Senator Corbett:

S. 49. Relating to the Alabama Sunset Law; to continue the

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existence and functioning of the Department of Insurance with certain modifications; to amend Sections 27-4-2, 27-7-7, 27-7-11, 27-7-18, 27-7-19, 27-7-23, 27-8-7, 27-8-15 and 27-8-16, Code of Alabama 1975.

Committee on Economic Affairs

By Senator Corbett:

S. 50. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Real Estate Appraisers Board with certain modifications; to amend Sections 34-27A-13, 34-27A-15, and 34-27A-20, Code of Alabama 1975.

Committee on Economic Affairs

By Senator Corbett:

S. 51. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Funeral Service with certain modifications; to amend Sections 34-13-20, 34-13-26, 34-13-53, 34-13-56, and 34-13-111, Code of Alabama 1975.

Committee on Economic Affairs

By Senator Corbett:

S. 52. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Cosmetology with certain modifications; to amend Sections 34-7-19 and 34-7-21, Code of Alabama 1975.

Committee on Economic Affairs

By Senator Corbett:

S. 53. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Indian Affairs Commission with certain modifications; to amend Sections 41-9-708, 41-9-712, 41-9-713, 41-9-715, and 41-9-716, Code of Alabama 1975.

Committee on Economic Affairs

By Senator Corbett (With Notice and Proof):

S. 54. Relating to Bullock County; providing that the members

of the county commission and county board of education shall run for election from four single-member districts and elected for staggered terms; providing that the chairman of each body shall run for election at-large; providing that the county commission shall develop said districts; and providing for a referendum.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 54, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Foshee:

S. 55. To amend Section 28-3A-25, Code of Alabama 1975, to provide further for unlawful acts, offenses, and penalties affecting certain persons under the alcoholic beverage licensing code.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senators Waggoner and Bailey:

S. 56. To establish a program to provide early intervention services for infants and toddlers with disabilities and their families.

Committee on Public Welfare

By Senator Waggoner:

S. 57. To amend Section 41-9-450 of the Code of Alabama 1975, which provides for the Alabama Sports Hall of Fame Board, so as to increase the membership of the Board from ten to fourteen members, and to give the Lieutenant Governor and the Speaker of the House each an appointment to the Board.

Committee on Rules

By Senator deGraffenried:

S. 58. To amend Section 15-18-8, Code of Alabama 1975, to

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provide for the commitment of certain convicted defendants to a mental health facility for appropriate clinical purposes.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senators Smith (J) and Bennett:

S. 59. To amend Section 16-13-52, Code of Alabama 1975, to provide an alternative method for determining the number of teacher units for each public school.

Committee on Education

By Senator Windom:

S. 60. Relating to motor vehicle insurance policies issued in Alabama, to provide for mandatory premium reductions for the liability, personal injury protection and collision coverages for certain age groups under certain conditions, to limit the application of said discounts and to exempt certain insurers from the provisions of this act.

Committee on Banking
and Insurance

By Senator Denton:

S. 61. To amend Section 11-6-23, Code of Alabama 1975, relating to the state Highway Department's participation in the salary of county engineer trainees.

Committee on Governmental
Affairs/Local Government

By Senator Windom:

S. 62. To create the position of insurance consumer advocate; to provide for the appointment, qualifications, and compensation of the insurance consumer advocate; to provide for annual review by committees of the Senate and the House of Representatives; to restrict a person formerly employed as insurance consumer advocate from direct or indirect employment by an insurance company for a certain time period; to prohibit a person employed as insurance consumer advocate from holding a state or local elected office; to provide penalties; to provide for the powers, duties, and responsibilities of the insurance consum-

er advocate; to provide for serving notice on the insurance consumer advocate by the Commissioner of Insurance; and to provide for staff, employees, and the use of technical assistants.

Committee on Banking
and Insurance

By Senator Windom:

S. 63. To amend Sections 27-13-28 and 27-13-66, Code of Alabama 1975, which relate to the annual statistical reports of insurance companies, so as to provide that certain information shall be public record; and to provide for a fine levied and collected by the commissioner, after a special hearing, for any person who, without prior written authorization, obtains any records, data or other information, or access thereto, of an insurance company or rate organization with the intent to convey such records, data or information to another company or organization for the purpose of affecting rates or gaining a competitive business advantage.

Committee on Banking
and Insurance

By Senator Mitchell (With Notice and Proof):

S. 64. To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Luverne in Crenshaw County.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 64, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Waggoner (With Notice and Proof):

S. 65. Relating to the City of Birmingham in Jefferson County; to amend Act No. 929, 1951 Regular Session, as extensively amended by Act No. 1272, 1973 Regular Session, and other amendatory acts, relating to loans to participants and retirees of Class I municipalities which are covered by a pension and relief or retirement and relief system for municipal officers and employees, so as to provide

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that participant's or retiree's loans shall be repaid in a period of sixty (60) months or less from the date of such loan and to provide further for the interest charged on such loans.

Committee on Local
Legislation No. 2

I hereby certify that the notice and proof is attached to the Bill, SB 65, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Windom:

S. 66. To provide for the adoption of Article 4A of the Uniform Commercial Code relating to funds transfers and to amend Section 7-1-105, Code of Alabama 1975, to provide for territorial application of the governing law under Article 4A; and to provide that this act shall become effective January 1, 1993.

Committee on Banking
and Insurance

By Senator Windom:

S. 67. To amend Sections 27-13-28 and 27-13-66, Code of Alabama 1975, which relate to the annual statistical reports of insurance companies, so as to provide that certain information shall be made available to certain agencies and officials; and to provide for a fine levied and collected by the commissioner, after a special hearing, for any person who, without prior written authorization, obtains any records, data or other information, or access thereto, of an insurance company or rate organization with the intent to convey such records, data or information to another company or organization for the purpose of affecting rates or gaining a competitive business advantage.

Committee on Banking
and Insurance

By Senator Windom:

S. 68. Relating to insurance rates approved for workmen's compensation insurance carriers; to provide further for those rates.

Committee on Banking
and Insurance

By Senator Mitchem:

S. 69. To provide that certain full-time employees and executive officers of the Alabama state special olympics, inc., may elect to become members of the teachers' retirement system of Alabama; to provide that the entity and its employees shall assume all costs, both contributory and administrative, and no cost shall devolve upon the state, and to provide for purchase of certain previous service credit in such system retroactively.

Committee on Business
and Labor Relations

By Senator Waggoner:

S. 70. To amend Section 32-5-76 of the Code of Alabama 1975, to provide for loads on motor vehicles to be covered and secured and to provide for exemptions.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Foshee:

S. 71. To amend Sections 41-4-180, 41-4-182 and 41-4-184 of the Code of Alabama 1975, relating to State House police officers and Capitol police officers, so as to require the elected members of the legislative council to employ necessary State House police officers and personnel, to prescribe the jurisdiction, duties, powers and uniforms of said officers, to authorize the legislative council to insure said officers and to further regulate State Capitol police officers' uniforms.

Committee on Economic Affairs

By Senators Mitchell, Waggoner, Amari, Lipscomb, Preuitt, Bolling, Denton, Dial, Barron, Dixon, Owens, Little, Hale, Windom, Ghee, Bailey, Foshee, Smith (J), Mitchem, and Ellis:

S. 72. To require public schools in Alabama to emphasize responsible sexual behavior and prevention of illegal drug use in those programs and curriculum that include instruction on such subjects; to specify the minimum contents to be included in that instruction; and to outline conduct that is improper or unlawful for school-age children.

Committee on Health

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By Senators Ghee and Bennett:

S. 73. To amend Section 17-20-1, Code of Alabama 1975, relating to the division of the state into congressional districts, so as to redistrict the congressional districts based upon the 1990 census.

Committee on Constitution
and Elections

By Senator Owens:

S. 74. To further amend Section 14-2-12 of the Code of Alabama 1975, so as to authorize Alabama Corrections Institution Finance Authority to issue an additional \$25,000,000 aggregate principal amount of Bonds.

Committee on Small Business

By Senator Owens:

S. 75. To amend Section 32-7-22, Code of Alabama 1975, relating to the Motor Vehicle Safety-Responsibility Act, so as to increase the motor vehicle liability policy from its present limits.

Committee on Banking
and Insurance

By Senator Owens:

S. 76. To amend Section 32-7-2, Code of Alabama 1975, relating to the Motor Vehicle Safety-Responsibility Act, so as to increase the proof of financial responsibility.

Committee on Banking
and Insurance

By Senator Owens:

S. 77. To amend Section 32-7-27, Code of Alabama 1975, relating to the Motor Vehicle Safety-Responsibility Act, so as to increase the proof of financial responsibility from \$11,000.00 to \$50,000.00.

Committee on Banking
and Insurance

By Senator Owens:

S. 78. To repeal Section 32-7-39, Code of Alabama 1975, relating to the expenses of administering Motor Vehicle Safety-Responsibility Act.

Committee on Banking
and Insurance

By Senator Owens:

S. 79. To amend Section 32-5A-191 and Section 32-5A-194 of the Code of Alabama 1975, to reduce the blood alcohol level necessary to create a presumption of driving under the influence.

Committee on Judiciary/Civil

By Senator Owens:

S. 80. To amend Sections 2-3-24, 2-19-130, 2-26-71, 2-27-6, 2-27-30, 9-8A-3 and 41-9-243, Code of Alabama 1975, relating to the membership of certain committees, organizations and commissions acting in connection with farmers and agriculture, so as to reflect the change in name of Alabama Farm Bureau Federation to Alabama Farmers Federation; and to ratify and confirm all actions taken under the authority of said sections of the Code of Alabama 1975 by Alabama Farmers Federation or its officers, as the successor to Alabama Farm Bureau Federation.

Committee on Small Business

By Senators Bolling, Hilliard, Corbett, Waggoner, Hale, Wilson, Parsons, Horn, Windom, Bennett, Foshee, Lindsey, deGraf-fenried, Bedsole, Campbell, and Smith (J):

S. 81. To provide an increase in judicial retirement benefits for any retired district judge who served as a district judge prior to July 30, 1979, and who retired prior to October 1, 1991; to provide for an annual determination of the costs of this increase in benefits and for annual appropriations from the general fund to the judicial retirement fund for costs of this increase.

Committee on Judiciary/Civil

By Senator Foshee:

S. 82. To propose an amendment to the Constitution of Ala-

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bama of 1901, to amend Amendment No. 373 which further amends Section 217 of the Constitution of Alabama of 1901, relating to ad valorem property taxes, to create an additional classification of taxable property for purposes of ad valorem taxation; and to provide for the assessment of all property in the new classification.

Committee on Finance
and Taxation

The above Bill was read a first time at length as required by the Constitution.

By Senator Foshee:

S. 83. To amend Section 40-8-1 of the Code of Alabama 1975, to include an additional class of property in the different categories of property for ad valorem taxation purposes.

Committee on Finance
and Taxation

By Senator Corbett:

S. 84. To provide for the payment to owners of real property the value of which has been adversely affected by land use regulations.

Committee on Economic Affairs

By Senator Foshee:

S. 85. To levy a tax on certain daily newspaper advertisements distributed in Alabama and on certain commercials shown on television stations in Alabama; to provide for the enforcement and collection of the tax and for the distribution of the proceeds; and to provide for penalties.

Committee on Finance
and Taxation

By Senator Bailey:

S. 86. To amend Section 25-4-10, Code of Alabama 1975, which defines the term "employment" for unemployment compensation purposes, to clarify the language exempting service in the employ of religious organizations.

Committee on Judiciary/Civil

By Senator Lindsey:

S. 87. To amend Sections 28-2A-1, 28-2A-3, and 28-2A-4 of the Code of Alabama 1975, relating to elections on the sale and distribution of alcoholic beverages within municipalities.

Committee on Economic Affairs

By Senator Lindsey:

S. 88. To amend Section 32-5-75 of the Code of Alabama 1975, to provide further for securing of shifting loads on motor vehicles.

Committee on Commerce,
Transportation, and Utilities

By Senator Bolling:

S. 89. Relating to the reimbursement of mandated training costs when one governmental entity hires certain employees from another governmental entity within a certain period, and to amend Section 36-21-7 of the Code of Alabama 1975.

Committee on Governmental
Affairs/Local Government

By Senator Lindsey:

S. 90. To make an appropriation from the Alabama Special Educational Trust Fund to Patrick Henry State Junior College for payment to the Town of Gilbertown for property.

Committee on Finance
and Taxation

By Senator Foshee:

S. 91. Relating to motor vehicle license tags; to provide for a front license tag for certain motor vehicles; to provide an additional fee to cover the costs of production and issuance of the additional license tag; and for this purpose amending Section 32-6-51 of the Code of Alabama 1975.

Committee on Commerce,
Transportation, and Utilities

By Senator Corbett:

S. 92. To provide for the regulation of elevators, dumbwaiters, escalators, moving walks, manlifts, and facilities and equipment associated therewith; to provide for administration and enforcement by the commissioner of labor and the department of labor; to provide for rules and regulations; to provide for the registration, inspection, and maintenance of facilities and equipment; to provide for operating permits and fees; and to provide for injunctions and penalties for violations.

Committee on Economic Affairs

By Senator Corbett:

S. 93. To provide further for a certain definition relating to affirmative action programs.

Committee on Economic Affairs

By Senator Windom:

S. 94. To further provide for school attendance standards and the operation of motor vehicles by certain students; to provide for certain exceptions; to provide that the state board of education and each local school system shall develop and distribute guidelines and information to affected parties; and to provide for the conditions to revoke or deny certain students the privilege of operating a motor vehicle; to provide a citation for the act which this bill becomes; and to provide an effective date.

Committee on Education

By Senator deGraffenried:

S. 95. Authorizing the owner of goods for sale to bring a civil action to recover damages from any person who commits or attempts to commit a theft of the goods and specifying the damages therefor; and providing for a delayed effective date.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator deGraffenried:

S. 96. Authorizing the owner of goods for sale to bring a civil

action to recover damages from any person who commits or attempts to commit a theft of the goods and specifying the damages therefor; and providing for a delayed effective date.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Windom:

S. 97. To amend Section 17-9-4 of the Code of Alabama 1975, to allow the judge of probate to provide a lesser number of voting machines for any election subject to the review of the circuit court.

Committee on Constitution
and Elections

By Senator Windom:

S. 98. To amend Section 17-18-2 of the Code of Alabama 1975, to provide that during the 1991-1995 quadrennium, special elections shall be held on Saturdays.

Committee on Constitution
and Elections

By Senators Bailey, Foshee, deGraffenried, Hale, Bennett, Windom, Dixon, and Dial:

S. 99. To mandate conversion rights for an employee or a member or his or her dependents under a group policy delivered or issued for delivery in this state which provides hospital, surgical or major medical expense insurance or any combination thereof, when said employee or member dies or when said employee's, member's or a dependent's group insurance has been terminated for any reason except: (a) nonpayment of any required contribution; or (b) replacement of any discontinued group coverage with similar group coverage within 31 days; to prescribe certain minimum benefit levels and the scope of coverage to be contained within the converted policy; to allow for termination of coverage under the converted policy due to an insured becoming eligible for Medicare coverage or coverage under any other group policy or plan; and to allow for optional group coverage in lieu of the issuance of a converted individual policy.

Committee on Economic Affairs

By Senator Corbett:

S. 100. Relating to the Alabama Sunset Law; to continue the

existence and functioning of the Plumbers and Gas Fitters Examining Board with certain modifications; to amend Sections 34-37-6, 34-37-8, 34-37-9, 34-37-12, and 34-37-15, Code of Alabama 1975, so as to provide minimum times for holding a lower classification before being examined for certification as a journeyman plumber, master plumber, or master pipe fitter; extend the time period for certification without an examination (grandfather clause); require the board to adopt a program of continuing education by October 1, 1994; require the board to adopt a late renewal penalty and levy administrative fines; and permit property owners to perform plumbing work on their own property.

Committee on Economic Affairs

By Senator Windom:

S. 101. Relating to records relating to the operation of pawnbroker or flea market businesses; and to provide for penalties for violations.

Committee on Governmental
Affairs/Local Government

By Senators Bennett, Ellis, Waggoner, Ghee, Amari, Wilson, Dixon, Bedsole, Horn, Little, Dial, Mitchell, Owens, Hale, Denton, Parsons, deGraffenried, Campbell, Lipscomb, Floyd, and Barron:

S. 102. Proposing an Amendment to the Constitution of Alabama of 1901, to authorize the levy of a minimum local ad valorem tax and provide the procedure to increase local ad valorem taxes.

Committee on Finance
and Taxation

The above Bill was read a first time at length as required by the Constitution.

By Senator Owens:

S. 103. Amending Sections 17-4-181 and 17-4-183, Code of Alabama 1975, to alter the time of year that boards of registrars meet to purge the voter registration lists and publish the names of voters to be struck from the lists.

Committee on Constitution
and Elections

By Senators Lindsey, Corbett, and Bedsole:

S. 104. To create the Alabama Indian Housing Authority; and to provide for its purpose and powers.

Committee on Economic Affairs

By Senators Corbett, Campbell, Horn, Hilliard, Wilson, Langford, Foshee, Floyd, Lindsey, Bedsole, Parsons, Sanders, and Figures:

S. 105. To amend sections 40-23-36 and 40-23-77, Code of Alabama 1975, so as to limit the discounts allowed to sellers or vendors who make payments of the taxes imposed by sections 40-23-1 through 40-23-38 and 40-23-60 through 40-23-88 before delinquency.

Committee on Business
and Labor Relations

By Senator Bolling:

S. 106. To amend Section 11-50-393 of the Code of Alabama 1975, relating to fees for members and the chair of boards of directors of gas districts.

Committee on Energy and
Natural Resources

By Senator Foshee:

S. 107. To amend Sections 37-6-3, 37-6-8, 37-6-9, 37-6-10, 37-6-12, 37-6-18, 37-6-22, 37-6-30 and to repeal Section 37-6-17 of the Code of Alabama 1975, relating to cooperatives organized for the purpose of supplying electric service, water and sewer service, and television reception service so as to further provide for the organization, operation, and powers of the cooperatives; and to amend Section 37-6-30 of the Code of Alabama 1975, relating to the right of cooperatives and certain municipal gas districts to terminate or decline service to customers under certain conditions.

Committee on Commerce,
Transportation, and Utilities

By Senator Owens:

S. 108. To amend Section 32-7-8, Code of Alabama 1975, re-

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lating to the Motor Vehicle Safety-Responsibility Act, so as to change the time of suspension of driver's licenses from one year to two years and the elapsed time when such security was required from one year to two years.

**Committee on Judiciary/Criminal
Justice and Public Safety**

By Senators Mitchem, Ellis, Smith (B), Preuitt, Hale, Bolling, Waggoner, Owens, Little, Bailey, Dixon, Dial, Windom, and Smith (J):

S. 109. Relating to the licensure and regulation of persons in the home building industry by examination and issuance of licenses; to create the Home Builders Licensure Board and to impose licensing fees and penalties for violations of this act.

**Committee on Business
and Labor Relations**

By Senators Lindsey, Corbett, Owens, deGraffenried, Denton, Waggoner, Foshee, Windom, Preuitt, Figures, Horn, Campbell, Bolling, Smith (B), Hale, Little, and Parsons:

S. 110. To provide for legislative security personnel and provide for their powers and duties.

Committee on Economic Affairs

By Senator Foshee:

S. 111. To authorize the Alabama Alcoholic Beverage Control Board to permit the handling and sale of low alcohol products, containing not more than four percent alcohol by volume, by its licensees; to provide for the licensing of low alcohol products manufacturers, low alcohol products importers, low alcohol products wholesalers, and low alcohol products retailers by Alabama Alcoholic Beverage Control Board; to impose state filing fees, and to levy state license fees on low alcohol products wholesalers, importers and retailers; to authorize the levy of county and municipal license fees; to impose an exclusive statewide tax on or measured by the volume of sales of low alcohol products and provide for the collection, administration, and distribution of the tax; to prescribe violations and offenses, and provide for the imposition of fines, and the suspension or revocation of licenses; to provide for separation of business interest of classes of low alcohol

products licensees; and to provide for regulation of advertising low alcohol products.

Committee on Economic Affairs

By Senator Windom:

S. 112. To provide further for the boundaries of police jurisdiction and the force and effect of police or sanitary regulations; amend Section 11-40-10 of the Code of Alabama 1975.

Committee on Local
Legislation No. 3

By Senators Windom and Floyd:

S. 113. To provide for the adoption of article 2A of the Uniform Commercial Code relating to leases of personal property and to exclude therefrom all leases, including, without limitation, leases under the Uniform Commercial Code from certain statutes involving personal property, by amending Sections 7-1-105, 7-1-201, 7-9-113, 35-4-54 and 35-4-94, Code of Alabama 1975; and to provide that this act shall become effective January 1, 1993.

Committee on Banking
and Insurance

By Senator Corbett:

S. 114. To provide for a pay scale for county chief appraisers based on population of the counties.

Committee on Economic Affairs

By Senator deGraffenried:

S. 115. To establish the 1992 Emergency Medical Services Act of Alabama providing for a statewide emergency medical services system; and to repeal Sections 22-18-1 to 22-18-7, inclusive, of the Code of Alabama 1975.

Committee on Health

By Senator Mitchell:

S. 116. To make supplemental appropriations from the Alabama Special Educational Trust Fund to the Butler County Board of Education and the Dale County Board of Education for the fiscal year ending

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September 30, 1992, for repairs to any school damaged by windstorm or fire in the counties.

Committee on Finance
and Taxation

By Senator Hilliard:

S. 117. To define and provide for the establishment of community development districts; and to prescribe the method by which alcoholic beverages may be lawfully sold within such districts.

Committee on Commerce,
Transportation, and Utilities

By Senator Mitchell:

S. 118. To amend Sections 32-6-230, 32-6-231, 32-6-232, 32-6-233, 32-6-234, and 40-12-300, of the Code of Alabama 1975, relating to motor vehicle registration and license tags and placards of handicapped persons; and to establish license fees.

Committee on Governmental
Affairs/State Administration

By Senator Lindsey:

S. 119. Proposing an amendment to Sections 232, 233, 234, and 237 of the Constitution of Alabama of 1901, as amended, relating to corporations to authorize the Legislature to define the activities that do or do not constitute the doing of business in Alabama by foreign corporations, to permit domestic corporations to engage in certain business not expressly authorized by its charter, to remove certain restrictions on the issuance of stock and bonds by domestic corporations, and to permit domestic corporations to issue preferred stock as authorized by general law.

Committee on Constitution
and Elections

The above Bill was read a first time at length as required by the Constitution.

By Senator Lindsey:

S. 120. To amend Section 9-13-82, Code of Alabama 1975, re-

lating to forest products privilege and severance taxes.

Committee on Finance
and Taxation

By Senators Dial, Barron, Amari, Lindsey, Little, Preuitt, Wilson, Lipscomb, Waggoner, Dixon, Hale, Denton, Owens, Mitchem, Smith (J), Bedsole, and Ellis:

S. 121. To amend Section 41-23-1, Code of Alabama 1975, to establish and specify the powers and duties of the Office of Water Resources as a division of the Department of Economic and Community Affairs; and to establish the Alabama Water Resources Commission and authorize the commission to promulgate rules and regulations for the Office of Water Resources.

Committee on Economic Affairs

By Senator deGraffenried:

S. 122. To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 2, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation specialist program, mandatory benefit review conferences, and adjudication of claims by administrative law judges within the Division of Workers' Compensation of the Department of Industrial Relations; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, to repeal Sections 25-5-6, 25-5-12, 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, 25-5-88, 25-5-89, 25-5-91, 25-5-92, 25-5-93, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975; and to provide for certain implementation dates for various sections of the act.

Committee on Business
and Labor Relations

By Senator Little:

S. 123. To propose an amendment to the Constitution of Alabama of 1901, so as to provide for the appointment of an additional three new members to the Board of Trustees of Auburn University by the Governor of Alabama.

Committee on Constitution
and Elections

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The above Bill was read a first time at length as required by the Constitution.

By Senator Little:

S. 124. To amend Section 16-48-5 of the Code of Alabama 1975, relating to the Board of Trustees of Auburn University, so as to provide for placement of new trustees into one of the existing classes by the Governor.

Committee on Constitution
and Elections

By Senator Little:

S. 125. To amend Section 17-22A-18 of the Code of Alabama 1975, the Fair Campaign Practices Act, to prohibit a political committee transferring any contribution to any other political committee.

Committee on Constitution
and Elections

By Senators Little and Dial:

S. 126. To amend Section 5-14A-3, Code of Alabama 1975, which provides for the Alabama Regional Reciprocal Savings Institutions Act, so as to provide further for the operation of branch offices by southern regional savings institutions.

Committee on Banking
and Insurance

By Senator Little:

S. 127. To allow the transfer of foreign nationals imprisoned in Alabama to the country of their citizenship.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Little:

S. 128. To amend Section 41-9-625, Code of Alabama 1975, relating to the Alabama Criminal Justice Information Center Commission, so as to permit the commission to adopt policies regarding

the collection, storage and dissemination of criminal history information which conform to those of the Federal Bureau of Investigation's National Crime Information Center and the criminal history repositories of other states and to repeal Sections 41-9-639 and 41-9-641, Code of Alabama 1975.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Little:

S. 129. To establish the "Alabama Child Nutrition Law"; to provide that each board of education shall establish school breakfast and lunch programs beginning with the 1993-94 school year; to authorize the state board of education to promulgate rules for the compliance of this act; and to provide for enforcement and the imposition of sanctions by the state superintendent of education.

Committee on Finance
and Taxation

By Senator Little:

S. 130. To revise the membership of the Commission on Uniform State Laws and provide for the payment of its expenses and dues by amending Sections 41-9-370 to 41-9-374, inclusive, Code of Alabama 1975.

Committee on Governmental
Affairs/State Administration

By Senator Little:

S. 131. To amend Section 36-29-14, Code of Alabama 1975, which provides the procedure for officers, employees and retirees of certain cities, towns, fire districts, water and fire authority districts and the Alabama League of Municipalities to be covered under the state employees' health insurance plan, so as to include employees of regional planning and development commissions, and regional councils and area agencies on aging within the coverage.

Committee on Governmental
Affairs/Local Government

By Senator Little:

S. 132. To create an Alabama Clearinghouse for State Publica-

tions within the Alabama Public Library Service and provide for its operations, duties and authority; to authorize the promulgation of reasonable rules and regulations; to provide for the creation of state publications depositories; and to repeal section 41-6-12, Code of Alabama 1975, which requires the printing of certain state publications.

Committee on Consumer Affairs

By Senator Little:

S. 133. To prohibit the discharge of waste and sewage into the waters of the state; to require certain vessels and structures to have certain marine sanitation devices; to regulate the sanitation facilities of marinas and boat storage facilities; to provide for certain fees and their distribution; to prescribe criminal penalties and administrative penalties; to repeal certain laws, and to provide for a prospective effective date.

Committee on Agriculture,
Conservation, and Forestry

By Senator Little:

S. 134. To amend Sections 36-25-1, 36-25-2, 36-25-4, 36-25-5, 36-25-6, 36-25-7, 36-25-10, 36-25-12, 36-25-13, 36-25-15, 36-25-18 and 36-25-27, Code of Alabama 1975, relating to the ethics law, to add certain definitions and redefine other terms; to change reference to elected officials and government employees to public officials and public employees to be consistent throughout the ethics law; to permit the Alabama ethics commission to investigate on its own initiative; to grant subpoena power to the commission; to permit the commission to employ a full-time attorney with statewide prosecutorial powers; to remove the prohibition against investigating anonymous complaints with certain safeguards; to add additional standards of conduct; to prohibit legislators from representing the state, county or municipalities or instrumentalities thereof in their districts; to prohibit representation of clients for a fee before quasi-judicial boards or commissions, governmental regulatory agencies or executive departments or agencies by public officials and public employees, family members or businesses thereof; to prohibit regulatory officials and employees and families thereof from accepting anything of value; to prohibit for a certain period former state officials and employees from serving for fees as lobbyists or before agencies where they have previously served; to provide for removal of names of candidates from ballots; to provide for annual registration of lobbyists as well as annual registration fees for them; to authorize the commission to assess a civil penalty for failure to

file a correct, timely statement of economic interests; and to provide further for the statute of limitations for violations.

Committee on Public Welfare

By Senator Barron:

S. 135. To make an appropriation to the Department of Education for the fiscal year ending September 30, 1993.

Committee on Finance
and Taxation

By Senator Barron:

S. 136. To make an appropriation to the Department of Public Health for the fiscal year ending September 30, 1993 for educational purposes.

Committee on Finance
and Taxation

By Senator Barron:

S. 137. To make an appropriation from the Alabama Special Educational Trust Fund to the Governor's Commission on Physical Fitness for the fiscal year ending September 30, 1993.

Committee on Finance
and Taxation

By Senator Barron:

S. 138. To make an appropriation to the Space Science Exhibit Commission for the fiscal year ending September 30, 1993 for educational purposes.

Committee on Finance
and Taxation

By Senator Barron:

S. 139. To make an appropriation for the support and maintenance of the Marion Military Institute for the fiscal year ending Sep-

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tember 30, 1993.

Committee on Finance
and Taxation

By Senator Barron:

S. 140. To make an appropriation to the Department of Youth Services for the fiscal year ending September 30, 1993.

Committee on Finance
and Taxation

By Senator Barron:

S. 141. To make an appropriation to the Project DARE drug education programs for the fiscal year ending September 30, 1993, and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 142. To make an appropriation for the support and maintenance of the Coosa Valley Medical Center School of Nursing for the fiscal year ending September 30, 1993.

Committee on Finance
and Taxation

By Senator Barron:

S. 143. To make an appropriation from the Alabama Special Educational Trust Fund to the Exploreum Museum of Discovery for the fiscal year ending September 30, 1993, and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 144. To make an appropriation for the support and mainte-

nance of the Talladega College for the fiscal year ending September 30, 1993.

Committee on Finance
and Taxation

By Senator Barron:

S. 145. To make an appropriation for the support and maintenance of the Tuskegee University for the fiscal year ending September 30, 1993.

Committee on Finance
and Taxation

By Senator Barron:

S. 146. To make an appropriation for the support and maintenance of the Walker County Junior College for the fiscal year ending September 30, 1993.

Committee on Finance
and Taxation

By Senator Barron:

S. 147. To make an appropriation from the State General Fund to the Alabama's Young Woman of the Year Program for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 148. To make an appropriation from the State General Fund to the America's Young Woman of the Year Program for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 149. To make an appropriation from the Alabama Special

Educational Trust Fund for the support and maintenance of Camp ASCCA, in Jackson Gap, Alabama for the fiscal year ending September 30, 1993, and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 150. To make an appropriation from the State General Fund to the Beacon House - Jasper for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 151. To make an appropriation from the Alabama Special Educational Trust Fund to the Bevill Center for Advanced Manufacturing Technology in Gadsden, Alabama for the fiscal year ending September 30, 1993, and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 152. To make an appropriation from the Alabama Special Educational Trust Fund to the Black Belt Human Resource Development Center for the fiscal year ending September 30, 1993, and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 153. To make an appropriation from the Alabama Special Educational Trust Fund to the Children's Hospital in Birmingham, Alabama, for the fiscal year ending September 30, 1993 and to require

an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 154. To make an appropriation from the Alabama Special Educational Trust Fund to the United Cerebral Palsy of Alabama, Inc., the United Cerebral Palsy Development Center for East Central Alabama, the Simpson-May Cerebral Palsy Center, the Cerebral Palsy Housing Foundation and United Cerebral Palsy of Mobile for the year ending September 30, 1993, and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 155. To make an appropriation from the State General Fund to the Commission on Aging for the Care Assurance System for the Aging and Homebound for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 156. To make an appropriation from the Alabama Special Educational Trust Fund to Constitution Hall Village at Huntsville, Alabama for the fiscal year ending September 30, 1993, and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 157. To make an appropriation from the State General Fund to the Coalition Against Domestic Violence for the fiscal year ending

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September 30, 1993 and to require an operations plan and an audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 158. To make an appropriation from the Alabama Special Educational Trust Fund to the Children's and Women's Hospital in Mobile, Alabama, for the fiscal year ending September 30, 1993 and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 159. To make an appropriation from the State General Fund to the Child Advocacy Centers for the fiscal year ending September 30, 1993 and to require operations plans and audited financial statements prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 160. To make an appropriation from the Alabama Special Educational Trust Fund to the Alabama League for the Advancement of Education for the fiscal year ending September 30, 1993, and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 161. To make an appropriation from the Alabama Special Educational Trust Fund to the Alabama Humanities Foundation for the fiscal year ending September 30, 1993 and to require an audited financial statement and operations plan prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 162. To make an appropriation from the Alabama Special Educational Trust Fund to the Helen Keller Eye Research Foundation for the fiscal year ending September 30, 1993, and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 163. To make an appropriation for the support and maintenance of the Special Schools for Special Education for the fiscal year ending September 30, 1993 and, to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 164. To make an appropriation for the support and maintenance of the Sickle Cell Education Program for the fiscal year ending September 30, 1993 and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 165. To make an appropriation from the State General Fund to the Shoals Entrepreneurial Center for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 166. To make an appropriation from the State General Fund to the Retired Senior Volunteer Program for the fiscal year ending

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September 30, 1993 and to require an operations plan prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 167. To amend Act No. 91-738, Section 2 C, Items 50, 51, 53, 54 and 55, passed in the 1991 First Extraordinary Session which makes appropriations for the ordinary expenses of the executive, legislative and judicial agencies of the State by changing to estimated appropriations from the Department of Finance Revolving Funds for the fiscal year ending September 30, 1992.

Committee on Finance
and Taxation

By Senator Barron:

S. 168. To make an appropriation from the Alabama Special Educational Trust Fund to the Alabama YMCA Youth and Government for the fiscal year ending September 30, 1993, and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 169. To make a supplemental appropriation to the Department of Finance - Telephone Revolving Fund in the amount of \$3,200,000 from the Alabama Special Educational Trust Fund and \$1,300,000 from the State General Fund for the fiscal year ending September 30, 1992.

Committee on Finance
and Taxation

By Senator Barron:

S. 170. To make an appropriation from the State General Fund to the Alabama Travel Council for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial state-

ment prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 171. To make an appropriation from the State General Fund to the Council for Parenting and Protecting Children for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 172. To make an appropriation from the State General Fund to the Elyton Recovery Center for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 173. To make an appropriation from the Alabama Special Educational Trust Fund to the East Alabama Child Development Center, for the fiscal year ending September 30, 1993 and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 174. To make an appropriation from the Alabama Special Educational Trust Fund to the Cleveland Avenue YMCA for the fiscal year ending September 30, 1993, and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

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By Senator Barron:

S. 175. To make an appropriation from the State General Fund to the Lighthouse Counseling Center for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 176. To make an appropriation for the support and maintenance of the Emergency Medical Services Programs for the fiscal year ending September 30, 1993 and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 177. To make an appropriation from the Alabama Special Educational Trust Fund to the Central Alabama Opportunities Industrialization Center for the fiscal year ending September 30, 1993 and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 178. To make an appropriation from the Alabama Special Educational Trust Fund to the Kate Duncan Smith DAR School, for the fiscal year ending September 30, 1993 and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senator Barron:

S. 179. To make an appropriation for the support and maintenance of the Lyman Ward Military Academy for the fiscal year ending

September 30, 1993.

Committee on Finance
and Taxation

By Senator Barron:

S. 180. To make appropriations for the ordinary expenses of the executive, legislative and judicial agencies of the State, for other functions of government, for debt service, and for capital outlay for the fiscal year ending September 30, 1993.

Committee on Finance
and Taxation

By Senator Barron:

S. 181. To make appropriations for the support, maintenance and development of public education in Alabama, for debt service, and capital outlay for the fiscal year ending September 30, 1993.

Committee on Finance
and Taxation

RECESS

At 12:35 P.M., Senator deGraffenried moved that the Senate take a recess until 6:30 P.M., at which time the Message of His Excellency, the Governor, will be delivered in Joint Session, and further moved that at the completion of the Joint Session the Senate stand in adjournment until Thursday, February 6, 1992 at 10 o'clock A.M., which motion was adopted.

JOINT SESSION

At 6:30 P.M., in accordance with Joint Resolution heretofore adopted, the Senate assembled in the Hall of the House of Representatives for the purpose of hearing the message of His Excellency, the Governor, the Honorable Guy Hunt.

The Session was called to order by Lieutenant Governor Folsom, President and Presiding Officer of the Senate. A quorum of the Legislature was present.

Thereupon, the Honorable Guy Hunt was escorted to the chair and

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delivered his address to the Legislature of Alabama.

ADJOURNMENT

The purpose of the Joint Session having been accomplished, at 7 o'clock P.M., in accordance with Motion heretofore adopted, the Senate adjourned until Thursday, February 6, 1992, at 10 o'clock A.M.

SECOND LEGISLATIVE DAY
THURSDAY, FEBRUARY 6, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by the Reverend Buford Lipscomb, Pastor, Liberty Church, Fairhope, Alabama.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Akilah Weaver, Georgia Washington Junior High School, Montgomery, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (J), Waggoner, Wilson, and Windom

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**REPORT OF COMMITTEE
ON RULES ON
REVISION OF THE JOURNAL**

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the First Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator deGraffenried, leave of absence was granted Senators Barron, Campbell, Figures, Mitchem, and Smith (B) for today.

MOTION TO ADJOURN

Senator deGraffenried moved that when the Senate adjourns today, it adjourn to meet again on Tuesday, February 11, 1992, at 2 o'clock P.M., which motion was adopted.

RESOLUTION

Senator Windom requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 5. FORBIDDING THE STATE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES FROM POSTING "NO SKIING" SIGNS ON FOWL RIVER IN MOBILE COUNTY.

WHEREAS, the State Department of Conservation has previously posted "No Skiing" signs on Fowl River, thereby depriving boaters and skiers of the full use and enjoyment of this body of public water; and

WHEREAS, the Legislature is committed to allowing the public to make full use of this body of public water; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do order and direct the Commissioner of the Department of Conservation and Natural Resources to cause the removal of all "No Skiing" signs erected since January 1, 1991, from the public waters of Fowl River in Mobile County.

BE IT FURTHER RESOLVED, That no "No Skiing" signs shall

be erected on Fowl River without the express approval of the Alabama Legislature evidenced by a joint resolution.

RESOLVED FURTHER, That a copy of this resolution be sent forthwith to the Commissioner of the Department of Conservation and Natural Resources.

On motion of Senator Windom, the Rules were suspended and the Resolution was adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Joint Resolutions, your signature thereto is requested.

HJR 2. COMMITTEE APPOINTED TO NOTIFY GOVERNOR LEGISLATURE IS IN SESSION.

Also:

HJR 3. INVITATION FOR JOINT ADDRESS.

GREG PAPPAS,
Clerk.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolutions, the titles of which are set out in the foregoing Message from the House.

NOTICES IN WRITING

Senator Dial offered the following Notice in Writing, to-wit:

NOTICE IN WRITING

Notice is hereby given that on the next legislative day a motion will be made to amend the Senate Rules as follows:

Amend Rule 51 by adding a sub-section 51 (b) which shall read as

follows:

Any local bill dealing with environmental issues affecting more than one political subdivision of the state shall first be assigned to the appropriate Local Legislation Committee. If the appropriate Local Legislation Committee gives the bill a favorable report, said bill shall then be referred to the appropriate standing committee and be treated in all further respects as a general bill.

Which was read and ordered filed with the Secretary.

Senator Foshee offered the following Notice in Writing, to-wit:

NOTICE IN WRITING

Notice is hereby given that on the next legislative day a motion will be made to amend the Senate Rules as follows:

Amend Rule 51 by adding a sub-section 51 (b) which shall read as follows:

Any local bill dealing with utilities, water or public services affecting more than one political subdivision of the state shall first be assigned to the appropriate Local Legislative Committee. If the appropriate Local Legislative Committee gives the bill a favorable report, said bill shall then be referred to the appropriate standing committee and be treated in all further respects as a general bill.

Which was read and ordered filed with the Secretary.

RULE 52(B) SUSPENDED

Senator Corbett requested and received permission to suspend Rule 52(b) in order to allow Bills to be introduced for the Second Legislative Day only.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senator Floyd (With Notice and Proof):

S. 182. Relating to Etowah County, authorizing the county

commission to levy an annual license or privilege fee upon certain businesses, vocations, occupations, callings, or professions; authorizing the county commission to promulgate necessary rules and regulations; providing for the allocation of fee receipts; and providing a prospective effective date.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 182, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Floyd (With Notice and Proof):

S. 183. Relating to Etowah County; authorizing the Etowah county commission to levy an additional county privilege, license, or excise tax on the sale, distribution, storage, use or other consumption of tobacco and certain tobacco products in such county; to provide for the collection and enforcement of the tax and distribution of the proceeds therefrom; and to provide for civil penalties for violations.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 183, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Floyd (With Notice and Proof):

S. 184. Relating to Etowah County; authorizing the county commission to levy a privilege or rental license tax on every person engaged in the renting of real estate; providing certain exceptions and exemptions; providing for the computation, collection, and enforcement of the tax; providing penalties for failure to pay the tax; authorizing the county commission to promulgate necessary rules and regulations; providing that the tax information shall be confidential; and providing for the allocation of the tax receipts.

Committee on Local
Legislation No. 1

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I hereby certify that the notice and proof is attached to the Bill, SB 184, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Floyd (With Notice and Proof):

S. 185. Pertaining to Etowah County; to provide for an Etowah County Work Release Center; and to provide for the alternate confinement, at the court's discretion, of certain alternative punishments for eligible offenders to said center for the purpose of working at gainful employment or for rehabilitative purposes; to provide for a suspended work release program; to provide that any person so released who fails to report for confinement as ordered shall be subject to the same punishment as provided for escape; to provide for the payment to the county by such persons of a portion of their net earnings and for utilization of the funds derived therefrom; to provide for the Etowah County Work Release Fund; to create the Etowah County Work Release Commission; to provide for the membership of said commission and for its powers and duties; to provide for immunity from civil liability, except in certain cases for county governmental units, and the Work Release Commission.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 185, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Floyd:

S. 186. Proposing a constitutional amendment relating to Etowah County, to provide that in every case in which the circuit courts, district courts or municipal courts of Etowah County should impose a fine for any offense or violation of a criminal law, a traffic law or an ordinance of a political subdivision of Etowah County, there shall be imposed an additional fine, and to provide for the distribution of the revenues derived from said additional fine.

Committee on Local
Legislation No. 1

The above Bill was read a first time at length as required by the

Constitution.

By Senator Floyd:

S. 187. Relating to Etowah County, proposing an amendment to the Constitution of Alabama of 1901, to authorize the Etowah County Commission to levy additional costs and fees on certain civil and criminal cases in the county and to provide for the distribution of the funds collected.

Committee on Local
Legislation No. 1

The above Bill was read a first time at length as required by the Constitution.

By Senator Floyd:

S. 188. Providing that certain members of the judicial retirement system of Alabama may purchase credit for certain previous service, not to exceed five years service, rendered as a United States magistrate or any other Federal judicial officer and prescribing certain conditions for purchasing such credit.

Committee on Finance
and Taxation

By Senator Floyd:

S. 189. To amend Section 16-11-2, Code of Alabama 1975, relating to city boards of education, to provide for election of a board upon the approval of the electors of the city.

Committee on Education

By Senator deGraffenried:

S. 190. To adopt and incorporate into the Code of Alabama 1975 those general and permanent laws of the state enacted during the 1991 Regular and First Special Sessions of the Legislature, as contained in the 1991 Cumulative Supplement to certain volumes of the Code and in the 1991 Replacement Volumes 18, 19, 19A, 22, and 22A of the Code; and to make corrections in certain volumes of the cumulative supplement and the 1991 Replacement Volume 18.

Committee on Public Welfare

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By Senators Bailey and Parsons:

S. 191. To extensively revise the current Child Labor Laws relating to employment and the safety, health and welfare of persons 17 years of age and younger in the workplace; to update the state statutes to conform to the Federal Child Labor Standards Act, as revised; to repeal conflicting laws and specifically Sections 25-8-1 through 25-8-31, Code of Alabama 1975, as amending the current Child Labor Laws; and to retain certain misdemeanor criminal penalties for violations.

Committee on Business
and Labor Relations

By Senator Floyd (With Notice and Proof):

S. 192. Relating to Etowah County; to provide for disposition of funds collected pursuant to Section 12-17-224, Code of Alabama 1975, so as to allow the same to be deposited into the District Attorney's Fund.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 192, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Floyd:

S. 193. Requiring records of public offices and agencies be open for inspection and duplication; providing for a judicial appeal process and an administrative investigative process; and specifying records exempt from coverage.

Committee on Governmental
Affairs/State Administration

By Senator Windom:

S. 194. Relating to investment of state funds; to amend Section 41-14-30, Code of Alabama 1975, as amended, which sets forth the authority of the state treasurer to deposit funds in state depositories and when funds may be invested in obligations of the United States or its

agencies, so as to change the limitation on investment in obligations of the United States, its agencies and instrumentalities to twenty percent of total state moneys, to delete the requirement that investment in such obligations be in maturities of one year or less, to broaden the United States agencies whose obligations may be purchased to all agencies and instrumentalities of the United States, and to money market funds which invest solely in authorized securities, and to set aside from the earnings on such obligations two and one-half percent (2.5%) for payment of administrative expenses of the state treasurer; to provide for severability of the provisions of this act; to provide for the repeal or amendment of conflicting laws; and to provide for an effective date.

Committee on Banking
and Insurance

By Senator Denton:

S. 195. Relating to the eradication and control of swine diseases; to make a conditional appropriation to the Department of Agriculture and Industries for the fiscal year ending September 30, 1993, to indemnify owners of swine for the value of any swine ordered condemned and destroyed for the prevention and eradication of the disease of hog cholera, African swine fever and other swine diseases.

Committee on Finance
and Taxation

By Senators Sanders, Hilliard, and Bedsole:

S. 196. Requiring the establishment of a school breakfast program and a school lunch program in certain schools.

Committee on Finance
and Taxation

By Senators Bennett and Wilson:

S. 197. To amend Sections 16-8-25 and 16-12-21, Code of Alabama 1975, pertaining to vacations and leaves of absence, so to further allow local boards of education greater flexibility in the development of local board policies.

Committee on Education

By Senator Denton:

S. 198. To amend Section 13A-5-40, Code of Alabama 1975,

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which provides for capital offenses, so as to include murder committed while trafficking in controlled substances as a capital offense.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Bennett (With Notice and Proof):

S. 199. Relating to retirement or participant benefits and spouse's or survivor's benefits for persons in Class 1 municipalities who are covered by a pension, relief and retirement system for municipal officers and employees pursuant to Act No. 929, S. 676, Regular Session 1951 (Acts 1951, p. 1579), as amended, so as to provide that all recipients of extraordinary disability benefits whose longevity payment received during the year prior to their disability was not included in the amount of monthly salary used in the calculation of the extraordinary disability benefit shall receive an increase in the monthly benefit of seventy percent (70%) of one-twelfth of the total longevity payment received during the year immediately preceding the recipient's disability application.

Committee on Local
Legislation No. 2

I hereby certify that the notice and proof is attached to the Bill, SB 199, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Smith (J):

S. 200. To amend Sections 17-10-12 and 17-16-11 of the Code of Alabama 1975, relating to primary elections and absentee balloting, to shorten the time period for the delivery of absentee ballots, the filing of declarations of candidacy, and for the certification of candidates.

Committee on Constitution
and Elections

By Senators Hale, Dial, and Waggoner:

S. 201. To further provide for criminal procedure and to prescribe the conditions for the issuance of warrants for nighttime searches and seizures; and to repeal Sections 15-5-8 and 15-5-12 of the

Code of Alabama 1975, relating to search warrants.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Floyd:

S. 202. To amend Section 32-10-5 of the Code of Alabama 1975, relating to the reporting of motor vehicle accidents.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Floyd:

S. 203. To direct the Department of Corrections and the Board of Pardons and Paroles to perform certain investigations and procedures in domestic violence and related cases.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Floyd:

S. 204. Levying a privilege or rental license tax on every person engaged in the renting of real estate; and providing for the allocation of the tax receipts.

Committee on Finance
and Taxation

By Senator Floyd:

S. 205. To authorize Class 4 municipalities which have adopted a mayor-council form of government to increase the membership of certain boards and agencies.

Committee on Governmental
Affairs/Local Government

By Senator Floyd:

S. 206. To provide that probate record files be consolidated into

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one well-bound record book.

Committee on Governmental
Affairs/Local Government

By Senator Foshee:

S. 207. To amend Alabama Code §36-29-1 (1975) to provide that employees in District Attorney Offices shall be allowed to purchase time employed with a District Attorney prior to the enactment of Act 82-621, to provide that District Attorneys are hereby authorized to pay the employer's share of any contribution for said time, to provide for severability and to provide an effective date.

Committee on Finance
and Taxation

By Senator Floyd:

S. 208. Proposing an amendment to Section 46 of the Constitution of 1901, relating to the elections and terms of office for state Senators and members of the state House of Representatives, so as to limit the legislative terms.

Committee on Constitution
and Elections

The above Bill was read a first time at length as required by the Constitution.

By Senator Floyd:

S. 209. To establish certain due process rights for persons under investigation by the Department of Human Resources for alleged child abuse and/or neglect.

Committee on Judiciary/Civil

By Senator Smith (J):

S. 210. Proposing an amendment to the Constitution of Alabama of 1901, relating to Limestone County, prohibiting any municipality in a county contiguous to Limestone County, in which the sale and distribution of alcoholic beverages is authorized by law and whose municipal limits extend into Limestone County from selling or dis-

tributing alcoholic beverages in that portion of the municipality located in Limestone County.

Committee on Constitution
and Elections

The above Bill was read a first time at length as required by the Constitution.

By Senator Bedsole:

S. 211. To amend Sections 11-98-1, 11-98-2, 11-98-4, 11-98-5, and 11-98-6 of the Code of Alabama 1975, relating to emergency telephone service and communication districts; to provide further for the service areas, the structure and powers of the board of commissioners, and the type of emergency service.

Committee on Commerce,
Transportation, and Utilities

By Senator Bolling:

S. 212. To provide for the suspension of the driver's license of any person convicted or adjudicated of violating certain crimes, and to provide for a prospective effective date.

Committee on Judiciary/Civil

By Senator Foshee:

S. 213. To establish the Alabama Insurance Board to negotiate group health insurance coverage for all residents and their dependents of the State of Alabama who wish to acquire it and to make an appropriation.

Committee on Banking
and Insurance

By Senator Floyd:

S. 214. To amend Section 41-5-21, Code of Alabama 1975, relating to audit reports by the Office of Examiners of Public Accounts, so as to provide for confidentiality of the working papers used in the preparation of such audit reports.

Committee on Judiciary/Civil

By Senator Floyd:

S. 215. Conditioning the release of portions of fiscal year state general fund appropriations to centers or agencies used in investigating or interviewing minors alleged to be victims of child abuse or child sexual abuse upon prior certification that videotapes of each child or victim interview have been made and kept for a certain time.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Windom:

S. 216. Relating to employees and employee classifications and benefits of state employees employed at the Alabama State Docks Department facilities; to authorize the same employee and family benefits for certain state employees employed at the Alabama State Docks Department facilities who are not receiving the benefits available to other State Docks facility state employees; to offer benefits to state employees covered by collective bargaining agreements subject to union approval or disapproval; authorizing the departmental employers to make certain accrued liability as well as prospective contributions for certain benefits; and to authorize the Directors of the Alabama State Docks and State Personnel Departments and the Chief Executive Officer of the Employees' Retirement System of Alabama to expedite the terms of this act; and to provide for certain retroactive effect.

Committee on Economic Affairs

By Senator Waggoner (With Notice and Proof):

S. 217. Relating to the Tenth Judicial Circuit in Jefferson County, amending Act No. 90-542, Regular Session, so as to increase the number of Deputy District Attorneys in said circuit.

Committee on Local
Legislation No. 2

I hereby certify that the notice and proof is attached to the Bill, SB 217, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Lindsey:

S. 218. Relating to the escheat of unclaimed property of prisoners of the Department of Corrections and to continuously appropriate the escheated funds to the Department of Corrections operating funds for current use.

Committee on Judiciary/Civil

By Senators Ghee, Foshee, Windom, and Hilliard:

S. 219. To require each person who discharges water pollution directly into the waters of the state and who possesses a water pollution control permit, to post a conspicuous sign near the point of discharge informing the public of any toxic pollutants contained in such discharges.

Committee on Energy and
Natural Resources

By Senator Lindsey:

S. 220. To amend Sections 9-11-55 and 9-11-56, Code of Alabama 1975, relating to the license fee for nonresident fishing licenses.

Committee on Agriculture,
Conservation, and Forestry

By Senator Lindsey:

S. 221. To amend Sections 9-11-46, 9-11-47, 9-11-48, and 9-11-49, inclusive, Code of Alabama 1975, relating to nonresident hunting licenses, to increase the fees and to delete provisions relating to the length of deer season for certain licenses.

Committee on Agriculture,
Conservation, and Forestry

By Senator Hilliard:

S. 222. Relating to the Alabama Public Service Commission; amending Sections 37-3-10, 37-3-11, 37-3-13, 37-3-15, 37-3-17, 37-3-21 and 37-3-22 of the Code of Alabama 1975, relating to motor vehicle carriers, so as to provide further for the regulation of such

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carriers and repealing Section 37-3-14 of the Code of Alabama 1975, which relates to the dual operations by motor vehicle carriers.

Committee on Commerce,
Transportation, and Utilities

By Senator Horn:

S. 223. To make an appropriation from the Alabama Special Educational Trust Fund to the Macon County Arts Manifesto for the fiscal year ending September 30, 1993 and to require an operations plan and audited financial statement prior to the release of any funds.

Committee on Finance
and Taxation

By Senator Corbett:

S. 224. To amend the Alabama Consumer Credit Act, Section 5-19-1, et seq, Code of Alabama 1975, so as to add a new section affirming the good faith reliance which may be placed in a written notice, interpretation, or opinion of the Superintendent of Banks or the Supervisor of the Bureau of Loans as Deputy Administrator of the Alabama Consumer Credit Act of 1971.

Committee on Economic Affairs

By Senator Corbett:

S. 225. To amend sections 40-23-36 and 40-23-77, Code of Alabama 1975, so as to limit the discounts allowed to sellers or vendors who make payments of the taxes imposed by sections 40-23-1 through 40-23-38 and 40-23-60 through 40-23-88 before delinquency.

Committee on Business
and Labor Relations

By Senator Little:

S. 226. To amend Section 16-48-8 of the Code of Alabama 1975, relating to the Board of Trustees of Auburn University, so as to provide further for a quorum of the Board of Trustees and to provide for an effective date.

Committee on Constitution
and Elections

By Senator Owens:

S. 227. To repeal Sections 22-21-290, 22-21-291, 22-21-292, 22-21-293, 22-21-294, 22-21-295, 22-21-296, and 22-21-297, Code of Alabama 1975, known as "the Health Care Responsibility Act" which relate to the financial responsibility for indigent health care.

Committee on Health

By Senator Mitchell:

S. 228. To reopen the Employees' Retirement System of Alabama to permit contributing state employees who worked for the Alabama State Council on the Arts to purchase retirement credit for their years of service.

Committee on Governmental
Affairs/State Administration

By Senator Horn:

S. 229. To make a supplemental appropriation to the Department of Finance - Telephone Revolving Fund in the amount of \$3,200,000 from the Alabama Special Educational Trust Fund and \$1,300,000 from the State General Fund for the fiscal year ending September 30, 1992.

Committee on Finance
and Taxation

By Senator Parsons:

S. 230. To amend Sections 41-4-180, 41-4-182 and 41-4-184 of the Code of Alabama 1975, relating to State House police officers and Capitol police officers, so as to require the elected members of the legislative council to employ necessary State House police officers and personnel, to prescribe the jurisdiction, duties, powers and uniforms of said officers, to authorize the legislative council to insure said officers and to further regulate State Capitol police officers' uniforms.

Committee on Judiciary/Civil

By Senators Bailey, Windom, and Bedsole:

S. 231. To provide for a comprehensive health insurance pool

for uninsurables and its operations; to provide for the operation of such plan; creating a public corporation in which all eligibility health providers, health maintenance organizations and others are members; to provide for eligibility, coverage levels, exclusions, rate setting and premiums, benefits and maximums, minimums, procedures for determination of benefits, costs and assessments, reciprocity, employers' responsibilities, exclusions, and other related duties and powers of the corporation, the board and its powers and duties; the insurance commissioner and the department of insurance; the operation of the pool, the administering carrier and related areas; and to provide for certain tax deductions.

Committee on Banking
and Insurance

By Senator Mitchell:

S. 232. To provide that any elected county official participating in the Employees' Retirement System as a member thereof may, prior to September 30, 1993, elect to cease membership in said system; and to provide that in the event of the making of such election, such official's right to receive benefits otherwise under said system shall not be affected.

Committee on Governmental
Affairs/State Administration

By Senators Amari, Bennett, Parsons, Denton, Windom, Waggoner, and Floyd:

S. 233. To provide for the college tuition of certain students in financial need to be paid by the state; to provide eligibility requirements for such payment; and to provide for the funding and implementation of the program.

Committee on Education

By Senators Amari, Parsons, Wilson, and Waggoner:

S. 234. Revising the application of the Abandoned Mine Reclamation Act by amending Sections 9-16-121 and 9-16-124 of the Code of Alabama 1975; and providing for a delayed effective date.

Committee on Energy and
Natural Resources

By Senators Dial, Bennett, Hale, and Bedsole:

S. 235. To establish a comprehensive statewide program for solid waste management to be coordinated by the Department of Environmental Management; to amend section 22-27-2, Code of Alabama 1975, to require further permitting of solid waste management facilities; to amend section 22-27-3, Code of Alabama 1975, to require county commissions and municipalities to make available collection/management facilities or services; to amend section 22-27-4, Code of Alabama 1975, to prohibit further unauthorized dumping; to amend section 22-27-5, Code of Alabama 1975, to provide further for the fees and contracts for collection/management of solid wastes; to require the department to establish requirements for solid waste management facilities and permits; to amend section 22-27-6, Code of Alabama 1975, to eliminate certain exceptions; to amend section 22-27-7, Code of Alabama 1975, clarifying the responsibilities of the Health Department and the Department of Environmental Management; to provide for penalties and other remedies for certain violations and to provide for enforcement; to provide further for certain powers and duties of the department; to require proof of financial responsibility prior to permitting; to establish a recycling market development council and provide for its appointment; and to establish a solid waste management trust fund, and to change the name of the Act to the Solid Waste Management Act.

Committee on Industrial
Development and Expansion

**COMMUNICATION FROM THE STATE
SUPERINTENDENT OF EDUCATION**

January 22, 1992

The Alabama State Senate
State House
Montgomery, AL 36130

In compliance with Amendment 399 of the Constitution of Alabama, I hereby certify to the Senate of Alabama that the following person has been elected as a member of The University of Alabama Board of Trustees by the members of said Board, in the manner prescribed by the Constitution, on June 22, 1990 and September 13, 1991.

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<u>Name</u>	<u>Address</u>	<u>District</u>	<u>Expiration of Term</u>
T. Michael Goodrich	Birmingham, AL	Sixth	1995

Respectfully submitted,

WAYNE TEAGUE,
State Superintendent
of Education.

Sworn to and subscribed
before me on this 22nd
day of January, 1992.

Nell Reynolds
Notary Public

COMMUNICATION RECEIVED

The foregoing Communication from the State Superintendent of Education, relative to an election to the Board of Trustees, University of Alabama, was read and referred to the Standing Committee on Confirmations.

**COMMUNICATION FROM THE STATE
SUPERINTENDENT OF EDUCATION**

January 22, 1992

The Alabama State Senate
State House
Montgomery, AL 36130

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<u>Name</u>	<u>Address</u>	<u>District</u>	<u>Expiration of Term</u>
Jack Edwards	Mobile, AL	First	1997

**JOURNAL OF THE SENATE, 1992
2nd Day**

Respectfully submitted,

WAYNE TEAGUE,
State Superintendent
of Education.

Sworn to and subscribed
before me on this 22nd
day of January, 1992.

Nell Reynolds
Notary Public

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**COMMUNICATION FROM THE STATE
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January 22, 1992

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State House
Montgomery, AL 36130

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<u>Name</u>	<u>Address</u>	<u>District</u>	<u>Expiration of Term</u>
Maury D. Smith	Montgomery, AL	Second	1995

Respectfully submitted,

WAYNE TEAGUE,
State Superintendent
of Education.

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2nd Day**

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Sworn to and subscribed
before me on this 22nd
day of January, 1992.

Nell Reynolds
Notary Public

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**COMMUNICATION FROM THE STATE
SUPERINTENDENT OF EDUCATION**

January 22, 1992

The Alabama State Senate
State House
Montgomery, AL 36130

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<u>Name</u>	<u>Address</u>	<u>District</u>	<u>Expiration of Term</u>
Peter L. Lowe	Huntsville, AL	Fifth	1996

Respectfully submitted,

WAYNE TEAGUE,
State Superintendent
of Education.

Sworn to and subscribed
before me on this 22nd
day of January, 1992.

Nell Reynolds
Notary Public

COMMUNICATION RECEIVED

The foregoing Communication from the State Superintendent of Education, relative to an election to the Board of Trustees, University of Alabama, was read and referred to the Standing Committee on Confirmations.

COMMUNICATION FROM THE STATE
SUPERINTENDENT OF EDUCATION

January 22, 1992

The Alabama State Senate
State House
Montgomery, AL 36130

In compliance with Amendment 399 of the Constitution of Alabama, I hereby certify to the Senate of Alabama that the following person has been elected as a member of The University of Alabama Board of Trustees by the members of said Board, in the manner prescribed by the Constitution, on June 22, 1990 and September 13, 1991.

<u>Name</u>	<u>Address</u>	<u>District</u>	<u>Expiration of Term</u>
Dr. Cordell Wynn	Tuscaloosa, AL	Seventh	1997

Respectfully submitted,

WAYNE TEAGUE,
State Superintendent
of Education.

Sworn to and subscribed
before me on this 22nd
day of January, 1992.

Nell Reynolds
Notary Public

COMMUNICATION RECEIVED

The foregoing Communication from the State Superintendent of Education, relative to an election to the Board of Trustees, University of

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Alabama, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Reps. Starkey, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis, and Zoghby:

**HJR 25. COMMENDING DAVID C. BROWN UPON HIS
RETIREMENT FROM THE UNIVERSITY OF NORTH ALABAMA.**

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Wilson, the Rules were suspended and the Resolution, HJR 25, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint

Resolution and sends same herewith to the Senate for its consideration:

By Reps. Sanderford, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis, and Zoghby:

HJR 20. COMMENDING STAFF SERGEANT TIMOTHY L. HARBARGER, RECIPIENT OF THE SOLDIER'S MEDAL.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Wilson, the Rules were suspended and the Resolution, HJR 20, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Morrow:

HJR 16. CREATING THE NORTHWEST ALABAMA STATE JUNIOR COLLEGE HISTORICAL COMMISSION.

WHEREAS, pursuant to Act No. 888 of the 1961 Regular Session of the Alabama Legislature, authority was granted to establish a junior

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college in Franklin, Marion, or Winston County, and

WHEREAS, pursuant to this statute, the first junior college in the State of Alabama was created in 1963 as Northwest Alabama Junior College, and

WHEREAS, the Alabama Legislature proudly notes that the founding of Northwest Alabama Junior College was the initial step in a journey which has led to the building of one of the finest junior and technical college systems in the nation, and

WHEREAS, the history of Northwest Alabama Junior College must be chronicled in order to preserve the beginning of this significant educational movement; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Northwest Alabama Junior College Historical Commission is established. The commission shall be composed of each of the following individuals:

1. Mr. Neal Taylor, who conceived the idea of public junior colleges in Alabama.

2. Mr. James A. Glassow, who served as the first President of Northwest Alabama Junior College.

3. Mr. Grady Fuller, who was one of the first faculty members employed by Northwest Alabama Junior College.

4. Mr. Jerry Baker, who was the first graduate of Northwest Alabama Junior College.

The commission shall compile a document recording the official history of Northwest Alabama Junior College, which shall be placed in the state archives as part of the official history of the Alabama public junior college movement.

BE IT FURTHER RESOLVED, That copies of this resolution be forwarded to the President of Northwest Alabama Junior College, the Director of the Department of Archives and History, and to each member of the commission.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Bolling, the Rules were suspended and the Resolution, HJR 16, set out in the foregoing Message from the House,

was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Rep. Turner:

HJR 8. COMMENDING ROBERT CLARK OF CITRONELLE, ALABAMA, UPON HIS RETIREMENT.

Also:

By Rep. Gaston:

HJR 17. COMMENDING TOMMY KNIGHT UPON HIS RETIREMENT.

Also:

By Rep. Newton (C):

HJR 18. COMMENDING THE REVEREND DR. JAMES E. COOK OF GREENVILLE, ALABAMA.

Also:

By Reps. Turnham, Higginbotham, and Clark (J):

HJR 19. COMMENDING JAMES LARRY BEATY OF OPELIKA, ALABAMA.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator deGraffenried, the Rules were suspended and the Resolutions, HJR's 8, 17, and 18, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

On motion of Senator Denton, the Rules were suspended and the Resolution, HJR 19, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Reps. Knight, Hill, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis, and Zoghby:

HJR 14. COMMENDING BENJAMIN BARTON THOMAS
OF INDIAN SPRINGS, ALABAMA.

Also:

By Reps. Rockhold, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newman, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable,

Walker, Warren, White, Williams, Willis, and Zoghby:

**HJR 15. MOURNING THE DEATH OF HARRY INGE
JOHNSTONE OF MOBILE, ALABAMA.**

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Denton, the Rules were suspended and the Resolutions, HJR's 14 and 15, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Reps. McClain, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis, and Zoghby:

**HJR 9. COMMENDING KAREN MICHELLE PALMORE
FOR OUTSTANDING ACADEMIC ACHIEVEMENT.**

Also:

By Rep. Black (L):

HJR 10. CONGRATULATING MRS. IZZIE LARKIN ROWE

ON THE OCCASION OF HER 100TH BIRTHDAY.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

On motion of Senator Denton, the Rules were suspended and the Resolutions, HJR's 9 and 10, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Cagle:

HJR 13. URGING CONGRESS TO ENACT DOLE COMMISSION RECOMMENDATION CONCERNING HEALTH BENEFITS FOR RETIRED COAL MINERS.

WHEREAS, a federal commission established by U.S. Secretary of Labor Elizabeth Dole recommended that Congress adopt legislation to ensure the continued provision of health benefits to retired coal miners who receive the benefits from the United Mine Workers of America Health and Retirement Funds; and

WHEREAS, the legislation would require all companies to pay a fair share of the cost of providing health benefits to their former employees and place an equitable tax on the entire coal industry to pay for the cost of "orphan" retirees who have no company to pay for the benefits; and

WHEREAS, approximately 4,000 Alabama citizens receive their health care from the United Mine Workers of America Funds; and

WHEREAS, the United Mine Workers of America Funds currently are experiencing serious financial difficulties; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Alabama Legislature go on record by supporting the recommendation of the Dole

Commission and urges the Congress of the United States to adopt legislation to implement said recommendation.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to the members of the Alabama congressional delegation and the President of the United States urging them to support this resolution supporting the Dole Commission's recommendations.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Denton, the Rules were suspended and the Resolution, HJR 13, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Reps. Morton, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis, and Zoghby:

HJR 11. MOURNING THE DEATH OF BILLY GRAY OF BIRMINGHAM, ALABAMA.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator deGraffenried, the Rules were suspended and the Resolution, HJR 11, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Rep. Carter:

HJR 5. COMMENDING CARRIE KIMBRELL MELTON OF DECATUR, ALABAMA.

Also:

By Rep. Letson:

HJR 6. COMMENDING THE EAST LAWRENCE HIGH SCHOOL VARSITY CHEERLEADERS FOR OUTSTANDING ACHIEVEMENT.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator deGraffenried, the Rules were suspended and the Resolution, HJR 5, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

On motion of Senator Denton, the Rules were suspended and the Resolution, HJR 6, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Reps. Higginbotham and Turnham:

HJR 27. HONORING J.B. COKER FOR 45 YEARS OF SERVICE TO THE ALABAMA FORESTRY COMMISSION.

Also:

By Reps. Dolbare, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Cosby, Crow, Cullins, Curry, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newman, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis, and Zoghby:

HJR 28. RECOGNIZING THE ALABAMA SPORTS FESTIVAL FOR ITS OUTSTANDING PERFORMANCES AND SERVICES TO THE AMATEUR ATHLETES OF THE STATE OF ALABAMA DURING THE CELEBRATION OF ITS TENTH YEAR "DIAMOND ANNIVERSARY" AND DESIGNATING IT AS ALABAMA'S ONLY OLYMPIC-STYLE STATE GAMES PROGRAM.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Denton, the Rules were suspended and the Resolutions, HJR's 27 and 28, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint

Resolution and sends same herewith to the Senate for its consideration:

By Reps. Hooper, Butler, and Zoghby:

**HJR 29. CREATING AN INTERNATIONAL AIRPORT
PERMANENT LEGISLATIVE OVERSIGHT COMMITTEE.**

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created an International Airport Permanent Legislative Oversight Committee. The committee shall be composed of three members of each house, to be appointed by the presiding officer of each house. The chair and vice chair of the committee shall be elected at the first meeting by the members of the committee.

Upon the request of the chair, the Secretary of the Senate and the Clerk of the House shall provide the clerical assistance necessary for the committee's work. The committee shall report its findings, conclusions, and recommendations to the Legislature not later than the tenth legislative day of each Regular Session. Each member of the committee shall be entitled to his or her regular legislative compensation, his or her per diem, and travel expenses for each day he or she attends a meeting of the committee which shall be paid out of any funds appropriated to the use of the Legislature, upon warrants drawn on the State Comptroller upon requisitions signed by the chair of the committee. Notwithstanding the foregoing, no member shall receive additional legislative compensation or per diem when the Legislature is in session or if a member is being paid any other payments on the same dates for attendance of other state business. The expenses of the committee shall not exceed \$5,000.00 annually.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The Resolution, HJR 29, set out in the foregoing Message from the House, was read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Holmes:

HJR 26. ENCOURAGING EMPLOYMENT OF BLACKS.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we call upon the State Budget Officer of Alabama to employ blacks.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The Resolution, HJR 26, set out in the foregoing Message from the House, was read and referred to the Standing Committee on Rules.

REPORTS OF COMMITTEES

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senators Lindsey, Corbett, Owens, deGraffenried, Denton, Waggoner, Foshee, Windom, Preuit, Figures, Horn, Campbell, Bolling, Smith (B), Hale, Little, and Parsons:

S. 110. To provide for legislative security personnel and provide for their powers and duties.

By Senator Foshee:

S. 71. To amend Sections 41-4-180, 41-4-182 and 41-4-184 of the Code of Alabama 1975, relating to State House police officers and Capitol police officers, so as to require the elected members of the legislative council to employ necessary State House police officers and personnel, to prescribe the jurisdiction, duties, powers and uniforms of said officers, to authorize the legislative council to insure said officers and to further regulate State Capitol police officers' uniforms.

By Senator Lindsey:

S. 87. To amend Sections 28-2A-1, 28-2A-3, and 28-2A-4 of the Code of Alabama 1975, relating to elections on the sale and distribu-

tion of alcoholic beverages within municipalities.

By Senator Corbett:

S. 93. To provide further for a certain definition relating to affirmative action programs.

By Senators Lindsey, Corbett, and Bedsole:

S. 104. To create the Alabama Indian Housing Authority; and to provide for its purpose and powers.

By Senator Corbett:

S. 92. To provide for the regulation of elevators, dumbwaiters, escalators, moving walks, manlifts, and facilities and equipment associated therewith; to provide for administration and enforcement by the commissioner of labor and the department of labor; to provide for rules and regulations; to provide for the registration, inspection, and maintenance of facilities and equipment; to provide for operating permits and fees; and to provide for injunctions and penalties for violations.

By Senator Corbett:

S. 84. To provide for the payment to owners of real property the value of which has been adversely affected by land use regulations.

By Senator Corbett:

S. 114. To provide for a pay scale for county chief appraisers based on population of the counties.

Senator Windom, Chairperson of the Standing Committee on Banking and Insurance, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Windom:

S. 66. To provide for the adoption of Article 4A of the Uniform Commercial Code relating to funds transfers and to amend Section 7-1-105, Code of Alabama 1975, to provide for territorial application of the governing law under Article 4A; and to provide that this act shall become effective January 1, 1993.

By Senators Windom and Floyd:

S. 113. To provide for the adoption of article 2A of the Uniform Commercial Code relating to leases of personal property and to exclude therefrom all leases, including, without limitation, leases under the Uniform Commercial Code from certain statutes involving personal property, by amending Sections 7-1-105, 7-1-201, 7-9-113, 35-4-54 and 35-4-94, Code of Alabama 1975; and to provide that this act shall become effective January 1, 1993.

By Senator Foshee:

S. 26. Relating to insurance rates approved for workmen's compensation insurance carriers; to provide further for those rates.

By Senator Owens:

S. 75. To amend Section 32-7-22, Code of Alabama 1975, relating to the Motor Vehicle Safety-Responsibility Act, so as to increase the motor vehicle liability policy from its present limits.

By Senator Owens:

S. 76. To amend Section 32-7-2, Code of Alabama 1975, relating to the Motor Vehicle Safety-Responsibility Act, so as to increase the proof of financial responsibility.

By Senator Owens:

S. 77. To amend Section 32-7-27, Code of Alabama 1975, relating to the Motor Vehicle Safety-Responsibility Act, so as to increase the proof of financial responsibility from \$11,000.00 to \$50,000.00.

By Senator Owens:

S. 78. To repeal Section 32-7-39, Code of Alabama 1975, relating to the expenses of administering Motor Vehicle Safety-Responsibility Act.

Senator Mitchell, Chairperson of the Standing Committee on Governmental Affairs/State Administration, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

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By Senator Langford:

S. 14. To permit the State Youth Services Director to appoint or employ persons to serve as police officers for the Department of Youth Services and specify the powers and duties of the officers.

Senator Mitchell, Chairperson of the Standing Committee on Governmental Affairs/State Administration, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senator Bennett (With Amendment):

S. 23. Creating the Impaired Drivers Trust Fund in the state treasury to provide rehabilitative services to residents of the state with certain types of injuries.

Senator Mitchell, Chairperson of the Standing Committee on Governmental Affairs/State Administration, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Langford:

S. 15. To amend Section 41-4-113 of the Code of Alabama 1975, relating to procedures for purchase of materials and supplies by state departments.

By Senator Mitchell:

S. 118. To amend Sections 32-6-230, 32-6-231, 32-6-232, 32-6-233, 32-6-234, and 40-12-300, of the Code of Alabama 1975, relating to motor vehicle registration and license tags and placards of handicapped persons; and to establish license fees.

By Senator Little:

S. 130. To revise the membership of the Commission on Uniform State Laws and provide for the payment of its expenses and dues by amending Sections 41-9-370 to 41-9-374, inclusive, Code of Alabama 1975.

Senator Denton, Chairperson of the Standing Committee on Gov-

ernmental Affairs/Local Governmental, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Bolling:

S. 89. Relating to the reimbursement of mandated training costs when one governmental entity hires certain employees from another governmental entity within a certain period, and to amend Section 36-21-7 of the Code of Alabama 1975.

By Senator Denton:

S. 61. To amend Section 11-6-23, Code of Alabama 1975, relating to the state Highway Department's participation in the salary of county engineer trainees.

Senator Denton, Chairperson of the Standing Committee on Governmental Affairs/Local Government, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Little (With Substitute):

S. 131. To amend Section 36-29-14, Code of Alabama 1975, which provides the procedure for officers, employees and retirees of certain cities, towns, fire districts, water and fire authority districts and the Alabama League of Municipalities to be covered under the state employees' health insurance plan, so as to include employees of regional planning and development commissions, and regional councils and area agencies on aging within the coverage.

Senator deGraffenried, Chairperson of the Standing Committee on Public Welfare, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senators Foshee, Bennett, Little, Dixon, Wilson, Bolling, Owens, Waggoner, Lindsey, Dial, Barron, Figures, Campbell, Hale, Parsons, and Ellis:

S. 2. To propose a self-executing amendment to the Alabama

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Constitution of 1901, relative to setting the dates, times and length of an organizational, annual regular, annual budget and any special session of the Alabama Legislature; to provide for superseding Constitutional Amendment No. 339; to repeal Constitutional Amendment No. 448; and to provide for a constitutional election on the proposed amendment.

The above Bill was read a second time at length as required by the Constitution.

By Senators Foshee, Little, Bolling, Owens, Waggoner, Wilson, Lindsey, Dial, Bennett, Barron, Figures, Campbell, Hale, and Parsons:

S. 4. To amend Section 41-19-7 of the Code of Alabama 1975, relating to the presentation of the proposed budget by the Governor.

By Senators Waggoner and Bailey:

S. 56. To establish a program to provide early intervention services for infants and toddlers with disabilities and their families.

Senator Mitchem, Chairperson of the Standing Committee on Business and Labor Relations, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senators Mitchem, Ellis, Smith (B), Preuit, Hale, Bolling, Waggoner, Owens, Little, Bailey, Dixon, Dial, Windom, and Smith (J):

S. 109. Relating to the licensure and regulation of persons in the home building industry by examination and issuance of licenses; to create the Home Builders Licensure Board and to impose licensing fees and penalties for violations of this act.

Senator Hilliard, Chairperson of the Standing Committee on Commerce, Transportation, and Utilities, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Lindsey:

S. 88. To amend Section 32-5-75 of the Code of Alabama 1975,

to provide further for securing of shifting loads on motor vehicles.

By Senator Foshee:

S. 107. To amend Sections 37-6-3, 37-6-8, 37-6-9, 37-6-10, 37-6-12, 37-6-18, 37-6-22, 37-6-30 and to repeal Section 37-6-17 of the Code of Alabama 1975, relating to cooperatives organized for the purpose of supplying electric service, water and sewer service, and television reception service so as to further provide for the organization, operation, and powers of the cooperatives; and to amend Section 37-6-30 of the Code of Alabama 1975, relating to the right of cooperatives and certain municipal gas districts to terminate or decline service to customers under certain conditions.

By Senator Hilliard:

S. 117. To define and provide for the establishment of community development districts; and to prescribe the method by which alcoholic beverages may be lawfully sold within such districts.

Senator Ghee, Chairperson of the Standing Committee on Constitution and Elections, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senators Ghee and Bennett:

S. 73. To amend Section 17-20-1, Code of Alabama 1975, relating to the division of the state into congressional districts, so as to redistrict the congressional districts based upon the 1990 census.

By Senator Windom:

S. 97. To amend Section 17-9-4 of the Code of Alabama 1975, to allow the judge of probate to provide a lesser number of voting machines for any election subject to the review of the circuit court.

By Senator Owens:

S. 103. Amending Sections 17-4-181 and 17-4-183, Code of Alabama 1975, to alter the time of year that boards of registrars meet to purge the voter registration lists and publish the names of voters to be struck from the lists.

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By Senator Little:

S. 123. To propose an amendment to the Constitution of Alabama of 1901, so as to provide for the appointment of an additional three new members to the Board of Trustees of Auburn University by the Governor of Alabama.

The above Bill was read a second time at length as required by the Constitution.

By Senator Little:

S. 124. To amend Section 16-48-5 of the Code of Alabama 1975, relating to the Board of Trustees of Auburn University, so as to provide for placement of new trustees into one of the existing classes by the Governor.

Senator Bolling, Chairperson of the Standing Committee on Consumer Affairs, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senator Little (With Amendment):

S. 132. To create an Alabama Clearinghouse for State Publications within the Alabama Public Library Service and provide for its operations, duties and authority; to authorize the promulgation of reasonable rules and regulations; to provide for the creation of state publications depositories; and to repeal section 41-6-12, Code of Alabama 1975, which requires the printing of certain state publications.

Senator Owens, Chairperson of the Standing Committee on Small Business, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Owens:

S. 80. To amend Sections 2-3-24, 2-19-130, 2-26-71, 2-27-6, 2-27-30, 9-8A-3 and 41-9-243, Code of Alabama 1975, relating to the membership of certain committees, organizations and commissions acting in connection with farmers and agriculture, so as to reflect the change in name of Alabama Farm Bureau Federation to Alabama Farmers Feder-

ation; and to ratify and confirm all actions taken under the authority of said sections of the Code of Alabama 1975 by Alabama Farmers Federation or its officers, as the successor to Alabama Farm Bureau Federation.

By Senator Owens:

S. 74. To further amend Section 14-2-12 of the Code of Alabama 1975, so as to authorize Alabama Corrections Institution Finance Authority to issue an additional \$25,000,000 aggregate principal amount of Bonds.

RESOLUTION

Senators Little, Preuitt, Dial, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Mitchell, Mitchem, Owens, Parsons, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom offered the following Senate Joint Resolution, to-wit:

SJR 6. MOURNING THE DEATH OF CAROLYN FUNDERBURK NICHOLS OF BIRMINGHAM, ALABAMA.

WHEREAS, the Legislature of Alabama grievously records the death of Carolyn Funderburk Nichols of Birmingham, Alabama, on October 3, 1991, at the age of 69 years; and

WHEREAS, born July 24, 1922, to J. F. and Maude Howell Funderburk, Mrs. Nichols grew up in Dadeville, Alabama, graduating from Dadeville High School in 1940; and

WHEREAS, in 1943, she was married to Bill Nichols, who was later to serve the State as a member of the Alabama Legislature, and as a United States Congressman for 22 years prior to his death on December 13, 1988, at which time Mrs. Nichols was asked to succeed her husband in office, but declined; and

WHEREAS, although a longtime resident of Sylacauga, Alabama, Mrs. Nichols was residing in Birmingham at the time of her lamentable death; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of Carolyn Funderburk Nichols, and extend our

most heartfelt sympathy to her daughters, Memorie Mitchell and Margaret Vlachos; to her son, Flynt Nichols; to her three grandchildren; and to other family members, for whom a copy of this resolution shall be provided.

On motion of Senator Little, the Rules were suspended and the Resolution was adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Reps. Morrow, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morton, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis, and Zoghby:

HJR 31. MOURNING THE DEATH OF CLAUDE LAMAR NELSON OF DECATUR, ALABAMA.

Also:

By Reps. McDaniel, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes,

Hooper, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newman, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis, and Zoghby:

HJR 32. RECOGNIZING WITH COMMENDATION THE LONG-ESTABLISHED RELATIONSHIP OF ALBERTVILLE, ALABAMA, AND ALBERTVILLE, FRANCE, AS SISTER CITIES.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator deGraffenried, the Rules were suspended and the Resolutions, HJR's 31 and 32, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

RESOLUTIONS

Senators Floyd, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom offered the following Senate Joint Resolution, to-wit:

SJR 7. MOURNING THE DEATH OF GEORGE C. HAWKINS OF GADSDEN, ALABAMA.

WHEREAS, it is with deep sadness and regret that the Legislature of Alabama records the death of George C. Hawkins of Gadsden, Alabama, on August 9, 1991, at the age of 72 years; and

WHEREAS, Mr. Hawkins, who completed his pre-law studies at the University of Alabama, graduated with honors from the University's School of Law in 1942 as president of his class; and

WHEREAS, at the time of his lamentable death, Mr. Hawkins had been engaged in the general practice of law in Gadsden since 1944; he was a former City Attorney for Gadsden, founder and past president of

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the Alabama Trial Lawyers Association, an Assistant Attorney General of Alabama (1942-1944), and served as legal advisor to former Governor James E. Folsom; and

WHEREAS, Mr. Hawkins, who was elected to the Alabama House of Representatives, in 1950, reelected in 1954, and elected to the State Senate in 1962, served as Speaker Pro Tem of the House and as President Pro Tem of the Senate, becoming one of the few Legislators in Alabama history to hold both of these leadership positions; and

WHEREAS, Mr. Hawkins in later years, and in addition to the practice of law, owned and operated a successful mortgage company in Gadsden and, until his death, continued his lifelong involvement in professional, political, civic, and community affairs; and

WHEREAS, in the death of George C. Hawkins, the community and state have suffered a deep and grievous loss, and he is sorely missed by all those whose lives he touched in genuine care and concern; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of George C. Hawkins of Gadsden, Alabama, and extend deepest sympathy to his wife, Mrs. Jean T. Hawkins; his children, Laura Browder, George Hawkins, III, David Hawkins, John Hawkins, and Carol Simmons; and to other family members, whose sorrow we sincerely share and for whom a copy of this resolution shall be provided.

On motion of Senator Floyd, the Rules were suspended and the Resolution was adopted by the Senate.

Senator Bolling offered the following Senate Joint Resolution, to-wit:

SJR 8. COMMENDING MAYOR GUTHRIE J. SMITH OF FAYETTE, ALABAMA.

WHEREAS, in noting the forthcoming retirement of Mayor Guthrie J. Smith of Fayette, Alabama, at the close of his current term, the Alabama Legislature pays tribute to the many accomplishments of his tenure, and to his status as Dean of Alabama Mayors; and

WHEREAS, Guthrie Smith, in municipal leadership, served on the Fayette City Council from 1948 until his 1955 election to the Office

of Mayor, and through successive re-election, has remained in office and in continuous service to the City of Fayette and its citizens; and

WHEREAS, Mayor Smith, who over the years has greatly improved and expanded city services, also has worked tirelessly and successfully in such areas as industry recruitment, cultural enhancement, economic development, and the overall improvement of the quality of life in his city; and

WHEREAS, as a result of his endeavors in working with federal and state agencies, millions of dollars in grants have been secured for Fayette and Fayette County for industrial park and recreation development projects, as well as for the municipal sewer treatment facility and a rural water program; and

WHEREAS, in an extension of his endeavors as a dedicated public servant, Mayor Smith has served as president of the Alabama League of Municipalities and on the League's Executive Committee, and on the national level has held several leadership positions with the National League of Cities; and

WHEREAS, Mayor Smith, a veteran of World War II who received a battlefield commission while serving in France, has an undergraduate degree in economics from Birmingham Southern and a master's degree, also in economics, from the University of Virginia; he has applied this knowledge and his experiences in business management to the fiscal affairs of his city and under his leadership, Fayette has operated within a responsible budget, has met its obligations, and has provided its citizens with services on an enviable per capita cost basis; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding municipal service and countless accomplishments to the good and well being of the City of Fayette, Alabama, we hereby most highly commend Mayor Guthrie J. Smith, to whom a copy of this resolution shall be presented with sincere best wishes for every future success and happiness in life.

On motion of Senator Bolling, the Rules were suspended and the Resolution was adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint

Resolution and sends same herewith to the Senate for its consideration:

By Rep. Clay:

HJR 30. DESIGNATING FEBRUARY 12, 1992, AS "RURAL AMERICA AND TUSKEGEE UNIVERSITY FARMERS CONFERENCE CENTENNIAL CELEBRATION 1992 DAY" IN ALABAMA.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Corbett, the Rules were suspended and the Resolution, HJR 30, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

ADJOURNMENT

At 11:10 A.M., on motion of Senator deGraffenried, in accordance with Motion heretofore adopted, the Senate adjourned until Tuesday, February 11, 1992, at 2 o'clock P.M.

THIRD LEGISLATIVE DAY
TUESDAY, FEBRUARY 11, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by Mr. Martel Pace, Minister, Vaughn Park Church of Christ, Montgomery, Alabama.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Tamara Nelson, Robert E. Lee High School, Montgomery, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Wilson, and Windom

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**REPORT OF COMMITTEE
ON RULES ON
REVISION OF THE JOURNAL**

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Second Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator deGraffenried, leave of absence was granted Senators Ghee, Hilliard, Mitchem, and Waggoner for today.

COMMITTEE REPORT FILED

Pursuant to the provisions of Act No. 1218, 1975, the annual report of the Joint Highway Committee was filed with the Secretary.

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the following Senate Joint Resolutions and returns same herewith to the Senate:

SJR 1. COMMITTEE APPOINTED TO NOTIFY GOVERNOR THAT LEGISLATURE IS IN SESSION.

Also:

SJR 2. COMMITTEE APPOINTED TO ESCORT GOVERNOR TO JOINT SESSION OF THE LEGISLATURE.

Also:

SJR 3. RELATIVE TO THE PRINTING OF THE ACTS AND JOURNALS.

GREG PAPPAS,
Clerk.

RULE 52(B) SUSPENDED

Senator Dial requested and received unanimous consent to suspend

Rule 52(b) in order to allow Bills to be introduced for the Third Legislative Day only.

MOTION IN WRITING

Senator Dial requested and received permission to suspend the Rules in order to offer the following Motion in Writing, to-wit:

MOTION IN WRITING

Notice having been given on a previous Legislative Day, motion is hereby made to amend the Senate Rules as follows:

Amend Rule 51 by adding a sub-section 51 (b) which shall read as follows:

Any local bill dealing with environmental issues affecting more than one political subdivision of the state shall first be assigned to the appropriate Local Legislation Committee. If the appropriate Local Legislation Committee gives the bill a favorable report, said bill shall then be referred to the appropriate standing committee and be treated in all further respects as a general bill.

Which was read and referred to the Standing Committee on Rules.

MOTION TO ADJOURN

Senator deGraffenried moved that when the Senate adjourns today, it adjourn to meet again on Wednesday, February 12, 1992, at 9:45 A.M., which motion was adopted.

RESOLUTION

Senators Amari, Bennett, and Parsons requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 9. URGING THE LEGISLATURE AND ALL STATE AGENCIES, SCHOOL SYSTEMS AND HIGHER EDUCATION INSTITUTIONS TO PURCHASE RECYCLED PRODUCTS.

WHEREAS, there is limited waste disposal capacity available in the State and recycling is an alternative; and

WHEREAS, the Alabama Department of Environmental Manage-

ment is finalizing the Alabama Solid Waste Management Plan as required by Act 89-824 to prolong waste disposal capacity in the State and require local governments to implement recycling programs as needed; and

WHEREAS, Act 90-564 required the development of a model recycling program to be used by state departments and agencies which will generate large volumes of recyclable materials; and

WHEREAS, recycling cannot succeed unless recycled products are purchased and integrated into our daily work and home environments, allowing recycled products to become competitive with products made from virgin natural resources; and

WHEREAS, Title 41 of the Code of Alabama directs the Department of Finance, Division of Purchases and Stores, to purchase and distribute all supplies and materials for the use of the state or any of its' departments, boards, bureaus, commissions, agencies, offices, or institutions; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we commend the State Purchasing Department and encourage them to continue and expand efforts to use recycled products wherever and whenever practicable, and we urge all State funded operations and programs to use recycled products to complement their recycling program;

BE IT FURTHER RESOLVED, That we in the legislative branch demonstrate our resolve by requesting the Secretary of the Senate, the Clerk of the House of Representatives, the Director of the Legislative Reference Service, and the Director of the Legislative Fiscal Office to provide options for recycled stationery and other paper products for use by the members and employees of the legislature.

Which was read and referred to the Standing Committee on Rules.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senator Dial:

S. 236. To amend Section 29-1-4, Code of Alabama 1975, so

as to change the time of meeting of the regular sessions of the legislature.

Committee on Constitution
and Elections

By Senator Mitchell:

S. 237. To provide further for the administration, powers, and duties of the Legislative Reference Service by amending Sections 29-7-2, 29-7-4, 29-7-5, and 29-7-6 and repealing Section 29-7-3 of the Code of Alabama 1975.

Committee on Governmental
Affairs/State Administration

By Senator Mitchell:

S. 238. To exempt the Alabama Baptist Children's Homes from the payment of all state, county, and municipal sales and use taxes.

Committee on Finance
and Taxation

By Senator Mitchell:

S. 239. To make an appropriation from the General Fund to the Legislative Reference Service for the fiscal year ending September 30, 1992.

Committee on Finance
and Taxation

By Senator Mitchell:

S. 240. To amend Section 29-6-4 of the Code of Alabama 1975, to provide further for the travel allowance of members of the Legislative Council.

Committee on Finance
and Taxation

By Senator Langford:

S. 241. To insure sufficient water line pressure and a minimum water volume flow from each publicly maintained water line and fire

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hydrant; and to provide penalties for violations.

Committee on Commerce,
Transportation, and Utilities

By Senator Foshee:

S. 242. To amend Section 36-21-8, Code of Alabama 1975, as amended by Act 91-568, 1991 Regular Session, relating to certain law enforcement officers retaining their badge and pistol as part of retirement benefits, to include certain law enforcement officers who are employees of the Alabama Criminal Justice Information Center.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Corbett:

S. 243. To amend further section 25-4-78, Code of Alabama 1975, relating to disqualifications for unemployment compensation benefits effective January 1, 1993, so as to remove lockout from the disqualifications.

Committee on Economic Affairs

By Senator Amari (With Notice and Proof):

S. 244. Relating to the City of Birmingham in Jefferson County, to amend Sections 1, 2, 6, 7, and 8 of Act No. 929, 1951 Regular Session, as amended by Act No. 1272, 1973 Regular Session, providing for a retirement and relief system for officers and employees of class 1 municipalities; to provide further for a member appointed by the city council and a retired member elected by the retired members in the system to serve as members of the board of managers of the City of Birmingham Retirement and Relief System; to provide for a quorum of the board; to provide additional compensation for members of the board; and to provide for the filing of reports and records which shall be public records subject to inspection.

Committee on Local
Legislation No. 2

I hereby certify that the notice and proof is attached to the Bill, SB

244, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senators Smith (B), Dixon, Barron, and Ellis:

S. 245. To provide that appeals from death sentence cases and from post conviction writs involving such cases shall be directly to the Alabama Supreme Court; to amend Sections 12-3-9 and 13A-5-53, Code of Alabama 1975; and to provide that the Alabama Supreme Court shall amend the Alabama Rules of Appellate Procedure to accommodate and reflect the provisions of this act.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Corbett:

S. 246. To amend Section 11-45-9.1, Code of Alabama 1975, which relates to the issuance of a summons and complaint by municipalities for violations of certain Class C misdemeanors and ordinances, so as to provide further for the violations.

Committee on Economic Affairs

By Senator Foshee:

S. 247. To amend Sections 27-40-1, 27-40-8, 27-40-9, 27-40-12, 27-40-15 and 27-40-17, Code of Alabama 1975, relating to insurance premium finance companies so as to provide further for the regulation of such companies; to delete certain references to and authorization for designated agents; to provide for a maximum service charge; to require premium finance agreements to contain certain information; to substantially alter the procedure for return of gross unearned premiums upon cancellation of the insurance contract; to provide for time limits for the return of unearned premiums; and to provide where the amount of premium financed shall be sent.

Committee on Banking
and Insurance

By Senator Waggoner:

S. 248. To exempt all property owned by Community Health

Systems, Inc. and the Walker Regional Medical Center from any state, county, and local ad valorem taxes.

Committee on Finance
and Taxation

By Senator Ellis:

S. 249. To amend Section 12-18-6, Code of Alabama 1975, as amended, relating to eligibility for retirement of justices of the supreme court, judges of courts of appeals and judges of circuit courts, so as to further provide therefor.

Committee on Finance
and Taxation

By Senator Dixon:

S. 250. To amend Article 1, Chapter 15, Title 12, Section 12-15-34 of the Code of Alabama 1975, relating to juvenile court proceedings to require the prosecutor to file a motion to transfer a child to criminal court for prosecution as an adult for conduct charged that would constitute an offense involving danger to the person; to expand the evidence to be considered by the court; to require the court to document the reasons for not transferring a case involving danger to the person to criminal court; and to create a rebuttal presumption where the conduct charged would constitute an offense involving danger to the person, that the child should be transferred for criminal prosecution as an adult.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senators Dixon and Langford:

S. 251. To amend Sections 34-9-8, 34-9-16, 34-9-40, 34-9-43, 34-9-63, and 34-9-64, Code of Alabama 1975; to increase certain fees related to the practice of dentistry and dental hygiene; to provide for nominations for election to the Board of Dental Examiners; to require the Board of Dental Examiners to publish a list of licensees at certain times; and to provide for the issuance of permits for the practice of parenteral sedation.

Committee on Health

By Senator Dixon:

S. 252. To provide for the offense of carrying firearms on

school premises or while being transported to or from school or a school-related activity on transportation provided by the school; and to prescribe penalties.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Langford:

S. 253. To amend Section 17-20-1, Code of Alabama 1975, relating to the division of the state into congressional districts, so as to redistrict the congressional districts based upon the 1990 census.

Committee on Constitution
and Elections

By Senators Bedsole, Dixon, and Parsons:

S. 254. To amend Sections 15-23-3, 15-23-4, and 15-23-17, Code of Alabama 1975, relating to the Crime Victims Compensation Commission; to change the name of the Commission to the Crime Victims Commission; to increase the per diem of commission members; and to further provide for assessments.

Committee on Finance
and Taxation

By Senator Owens:

S. 255. Authorizing small or rural hospitals to permit nurse practitioners or assistants to physicians to perform medical services in an emergency room at certain times; and granting an income tax credit to rural physicians.

Committee on Health

By Senator Owens:

S. 256. Relating to the suspension of the license or permit to drive of certain people who have an alcohol concentration in the blood or breath at a level beyond the defined conditions for safe driving.

Committee on Judiciary/Civil

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By Senators Lipscomb, Floyd, Little, Lindsey, Ellis, and Smith (J):

S. 257. To provide that the state administrator of the Interstate Compact for the Supervision of Parolees and Probationers shall have the authority to issue warrants for arrest of an out-of-state parolee or an out-of-state probationer when he has reason to believe that an offense or violation of parole or probation in an interstate compact case has been or is being committed; and to provide that he shall be available or on call on a 24-hour-a-day basis, seven days a week.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Lindsey:

S. 258. To amend Section 36-26-35, Code of Alabama 1975, which provides for the maximum amount of annual leave that may be accrued by state employees, so as to provide further for the leave accrued by law enforcement officers in the department of public safety.

Committee on Governmental
Affairs/State Administration

By Senator Horn (With Notice and Proof):

S. 259. Relating to Class 1 municipalities; providing for the election of the city board of education from nine single-member districts.

Committee on Local
Legislation No. 2

I hereby certify that the notice and proof is attached to the Bill, SB 259, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Bailey:

S. 260. To amend Section 26-16-30 of the Code of Alabama 1975, relating to the Children's Trust Fund, to provide for the investment of trust fund money.

Committee on Banking
and Insurance

By Senators Bailey, Amari, Windom, Owens, Mitchell, Lipscomb, Preuitt, Ellis, Hale, Dial, Bolling, Dixon, and Ghee:

S. 261. To provide for mandatory professional liability insurance for all abortion or reproduction health centers as defined by state law; to require the obtaining of professional liability insurance by abortion or reproduction health centers in order to obtain a license to operate, renewal of a license, or for continued operation.

Committee on Banking
and Insurance

By Senator Ellis:

S. 262. To amend Section 41-16-51, Code of Alabama 1975, to exempt purchases of computers and wordprocessing hardware and custom software from competitive bidding requirements.

Committee on Governmental
Affairs/State Administration

By Senators Bailey, Corbett, Lipscomb, Dixon, and Bennett:

S. 263. To provide for counselling and therapy for sworn law enforcement officers in the State of Alabama who suffer from stress of any nature as a result of any work-related trauma to an extent that it interferes with their ability to effectively carry out their duties and to provide that such counselling and therapy be made available under the terms of the mental health and substance abuse services contracts between the Alabama Department of Mental Health and Mental Retardation and community programs to the extent that public funds may be made available for such services.

Committee on Public Welfare

By Senators Waggoner, Dial, Hale, and Foshee:

S. 264. To amend Sections 13A-11-30 and 13A-11-31, Code of Alabama 1975, relating to criminal eavesdropping; so as to further define the term eavesdrop and to alter the offense of criminal eavesdropping.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Horn:

S. 265. To make a supplemental appropriation of up to \$1,000,000 from the Alcoholic Beverage Control Board Fund to the Alcoholic Beverage Control Board, for fiscal year 1991-92, for the costs of a credit card purchase program.

Committee on Finance
and Taxation

By Senator Horn:

S. 266. To make a supplemental appropriation of up to \$1,000,000 from the Alcoholic Beverage Control Board Fund to the Alcoholic Beverage Control Board, for fiscal year 1992-93, for the costs of a credit card purchase program.

Committee on Finance
and Taxation

By Senators Lipscomb, Dial, Ellis, Amari, Hale, Denton, Owens, Bolling, Mitchell, Waggoner, Bailey, and Preuit:

S. 267. To provide for the prohibition of abortions in the state except to save the life of the mother, or in reported cases of specified rape or incest; to provide certain affirmative defenses for abortions performed when the pregnancy results from rape or incest; to provide that the woman upon whom the abortion is being performed is not subject to criminal penalties; to provide criminal penalties for the crime of abortion; to provide certain reporting requirements and criminal penalties for failing to report; and to repeal Section 13A-13-7 of the Code of Alabama 1975.

Committee on Health

By Senator Little:

S. 268. To make the willful violation of any provision of a temporary or permanent protection order or restraining order involving domestic relations or family violence issued pursuant to the Protection From Violence Act, Section 30-5-1 to 30-5-10, inclusive, Code of Alabama 1975, a Class A misdemeanor; to impose additional mandatory minimum penalties; to permit the arresting officer certain arrest powers with probable cause; to provide for an affirmative defense for lack of knowledge and burden of proof; to provide certain immunities; and to

provide this act shall be construed in pari materia with Chapter 5 of Title 13A, Code of Alabama 1975, and other pertinent laws, relating to fines, sentences, and unlawful civil and criminal acts.

Committee on Judiciary/Civil

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Campbell:

HJR 34. RELATIVE TO MEETING DAYS.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two houses adjourn today, Thursday, February 6, 1992, they adjourn to meet again on Tuesday, February 11, 1992.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator deGraffenried, the Rules were suspended and the Resolution, HJR 34, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

REPORTS OF COMMITTEES

Senator Parsons, Chairperson of the Standing Committee on Judiciary/Civil, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, with substitute, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Floyd (With Substitute):

S. 209. To establish certain due process rights for persons under investigation by the Department of Human Resources for alleged child abuse and/or neglect.

By Senator Parsons (With Substitute):

S. 230. To amend Sections 41-4-180, 41-4-182 and 41-4-184 of

the Code of Alabama 1975, relating to State House police officers and Capitol police officers, so as to require the elected members of the legislative council to employ necessary State House police officers and personnel, to prescribe the jurisdiction, duties, powers and uniforms of said officers, to authorize the legislative council to insure said officers and to further regulate State Capitol police officers' uniforms.

Senator Parsons, Chairperson of the Standing Committee on Judiciary/Civil, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Lindsey:

S. 218. Relating to the escheat of unclaimed property of prisoners of the Department of Corrections and to continuously appropriate the escheated funds to the Department of Corrections operating funds for current use.

By Senators Bolling, Hilliard, Corbett, Waggoner, Hale, Wilson, Parsons, Horn, Windom, Bennett, Foshee, Lindsey, deGraffenried, Bedsole, Campbell, and Smith (J):

S. 81. To provide an increase in judicial retirement benefits for any retired district judge who served as a district judge prior to July 30, 1979, and who retired prior to October 1, 1991; to provide for an annual determination of the costs of this increase in benefits and for annual appropriations from the general fund to the judicial retirement fund for costs of this increase.

Senator Mitchell, Chairperson of the Standing Committee on Governmental Affairs/State Administration, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Mitchell:

S. 228. To reopen the Employees' Retirement System of Alabama to permit contributing state employees who worked for the Alabama State Council on the Arts to purchase retirement credit for their years of service.

By Senator Mitchell:

S. 232. To provide that any elected county official participating

in the Employees' Retirement System as a member thereof may, prior to September 30, 1993, elect to cease membership in said system; and to provide that in the event of the making of such election, such official's right to receive benefits otherwise under said system shall not be affected.

Senator Denton, Chairperson of the Standing Committee on Governmental Affairs/Local Government, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Denton:

S. 17. To establish the "Alabama Pawnshop Act"; to provide for certain definitions; to provide for the pawnshop charge which may be charged by a pawnbroker; to provide for exceptions; to provide that amounts in excess of the pawnshop charge shall be uncollectible and shall void the pawn transaction; to provide for dates of payment; to provide for prohibited acts by pawnbrokers; to provide for the duties of pawnbrokers; to provide for inspection by certain law enforcement officers; to provide for liens for pawnbrokers; to provide for the redemption or automatic forfeiture of pledged goods; to provide for the satisfaction of liens of pawnbrokers; to provide penalties for violations of this act; and to repeal sections 8-1-80 through 8-1-84, Code of Alabama 1975.

Senator Mitchem, Chairperson of the Standing Committee on Business and Labor Relations, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was severally read a second time and placed on the calendar, to-wit:

By Senator deGraffenried:

S. 122. To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 2, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation specialist program, mandatory benefit review conferences, and adjudication of claims by administrative law judges within the Division of Workers' Compensation of the Department of Industrial Relations; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, to repeal Sections 25-5-6, 25-5-12, 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, 25-5-88, 25-5-89, 25-5-91, 25-5-92, 25-5-93, and Sections 25-5-140 to

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25-5-180, inclusive, Code of Alabama 1975; and to provide for certain implementation dates for various sections of the act.

Senator Figures, Chairperson of the Standing Committee on Local Legislation No. 3, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Windom (With Notice and Proof):

S. 33. Relating to Mobile County; requiring the Mobile County Commission to call for a referendum on the question of location or acceptance of any privately-owned or controlled regional landfill within the county prior to such location or acceptance.

By Senator Windom (With Notice and Proof):

S. 34. Relating to Mobile County and the location or construction of a solid waste landfill or solid waste landfill facility within the county or within any municipality therein; amending Section 1 of Act No. 86-480, H. 631 of the 1986 Regular Session (Acts 1986, p. 914), relating to such sitings, so as to prohibit the county commission or any municipal governing body from permitting any solid waste landfill or solid waste landfill facility to be situated within one mile of any existing or proposed school site; and providing exceptions.

Senator Figures, Chairperson of the Standing Committee on Local Legislation No. 3, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time, to-wit:

By Senator Figures (With Notice and Proof) (With Amendment):

S. 24. Relating to Mobile County; to amend Act No. 86-545, S. 655, 1986 Regular Session, which creates a County Racing Commission, to delete the residency requirements for certain applicants, owners, and employees; to alter the permissible number of racing days; to authorize a licensee to receive and transmit certain racing broadcasts and to provide that wagering on broadcasts shall be subject to the same commissions as live racing; to further provide for the tax on the contributions to all pari-mutuel pools, the licensees' amount of commission, and the distribution of amounts due on outstanding unredeemed mutuel tickets; to require certain funds be used for capital improvements; to provide further for the distribution of monies received

under this act; and to regulate the expenditures of the commission.

BILL REFERRED

Pursuant to the provisions of Senate Rule 51, the President and Presiding Officer of the Senate ordered said Bill, SB 24, referred to the Standing Committee on State Development and Tourism.

MOTION TO ADJOURN

At 3:25 P.M., Senator Windom moved that the Senate adjourn until Wednesday, February 12, 1992, at 9:45 A.M., which motion was lost.

Yeas 12 Nays 15

Yeas:

Senators:

Campbell, Corbett, Figures, Floyd, Horn, Langford, Lindsey, Little, Sanders, Smith (J), Wilson, and Windom -12

Nays:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Denton, Dial, Foshee, Hale, Lipscomb, Mitchell, Owens, Preuitt, and Smith (B) -15

REPORT FROM RULES

Senator Preuitt, Chairperson of the Standing Committee on Rules, reported that said committee, in session, had acted on the following Motion in Writing, and ordered same returned to the Senate with a favorable report, to-wit:

MOTION IN WRITING

Notice having been given on a previous Legislative Day, motion is hereby made to amend the Senate Rules as follows:

Amend Rule 51 by adding a sub-section 51 (b) which shall read as follows:

Any local bill dealing with environmental issues affecting more than one political subdivision of the state shall first be assigned to the appropriate Local Legislation Committee. If the appropriate Local Legislation Committee gives the bill a favorable report, said bill shall then be referred to the appropriate standing committee and be treated in all

further respects as a general bill.

POINT OF ORDER

Senator Windom asked, "How would Local Legislation No. 3 bills that have already had a second reading, be affected by the change in Rule 51(b)?"

RULING OF THE CHAIR

The President and Presiding Officer of the Senate ruled that they would be treated as general bills.

POINT OF ORDER

Senator Windom asked, "What is the status of my local bills reported from Local Legislation No. 3?"

RULING OF THE CHAIR

The President and Presiding Officer of the Senate ruled that if the rule change is voted on, Senator Windom's bills would not go to Committee but would be treated as general bills.

FURTHER CONSIDERATION OF MOTION IN WRITING

The Senate proceeded to further consideration of the Dial Motion in Writing.

On motion of Senator Dial, said Motion in Writing was then adopted.

Yeas 22 Nays 8

Yeas:

Senators:

Amari, Barron, Bedsole, Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Mitchell, Owens, Parsons, Preuitt, Smith (B), and Waggoner -22

Nays:

Senators:

Bailey, Bennett, Figures, Ghee, Lipscomb, Little, Smith (J), and Windom - 8

MOTIONS IN WRITING

Senator Little offered the following Motions in Writing, to-wit:

I move that the Bill, SB 131, on page 12 of the Third Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Also:

I move that the Bill, SB 132, on page 19 of the Third Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which were adopted, and the President and Presiding Officer of the Senate ordered said Bills, SB's 131 and 132, referred to the Standing Committee on Rules for placement on the Consent Calendar.

REPORT FROM RULES

Senator Preuit, Chairperson of the Standing Committee on Rules, reported that said committee, in session, had acted on the following Senate Joint Resolution and ordered same returned to the Senate with a favorable report, to-wit:

SJR 9. URGING THE LEGISLATURE AND ALL STATE AGENCIES, SCHOOL SYSTEMS AND HIGHER EDUCATION INSTITUTIONS TO PURCHASE RECYCLED PRODUCTS.

And on motion of Senator Amari, said Resolution, SJR 9, was adopted by the Senate.

COMMITTEE REPORT

Senator Langford, Chairperson of the Standing Committee on State Development and Tourism, reported that said committee, in session, had acted on the Bill, SB 24, and ordered same returned to the Senate with a favorable report, and placed on the calendar.

REPORTS OF COMMITTEES RESUMED

Senator Windom, Chairperson of the Standing Committee on Banking and Insurance, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with

a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Smith (B):

S. 19. To provide for mandatory errors and omissions insurance coverage for all active real estate licensees; to authorize the real estate commission to contract for such coverage in compliance with state competitive bid laws; to allow optional coverage by any insurance carrier which meets minimum standards; to provide that no such coverage shall be required when it is not available at a reasonable premium and to authorize such commission to promulgate and implement administrative rules and procedures to carry out the provisions of this act.

By Senator Windom:

S. 194. Relating to investment of state funds; to amend Section 41-14-30, Code of Alabama 1975, as amended, which sets forth the authority of the state treasurer to deposit funds in state depositories and when funds may be invested in obligations of the United States or its agencies, so as to change the limitation on investment in obligations of the United States, its agencies and instrumentalities to twenty percent of total state moneys, to delete the requirement that investment in such obligations be in maturities of one year or less, to broaden the United States agencies whose obligations may be purchased to all agencies and instrumentalities of the United States, and to money market funds which invest solely in authorized securities, and to set aside from the earnings on such obligations two and one-half percent (2.5%) for payment of administrative expenses of the state treasurer; to provide for severability of the provisions of this act; to provide for the repeal or amendment of conflicting laws; and to provide for an effective date.

BILL RE-REFERRED

Senator Figures, Chairperson of the Standing Committee on Local Legislation No. 3, reported that said committee, in session, had acted on the Bill, SB 112, and ordered same returned to the Senate with the recommendation that it be re-referred to another Committee.

And the President and Presiding Officer of the Senate ordered said Bill, SB 112, re-referred to the Standing Committee on Governmental Affairs/Local Government.

RESOLUTIONS

Senator Little requested and received permission to suspend the

Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 10. COMMENDING MARIAN ACREE TUCKER FOR OUTSTANDING CONTRIBUTIONS AND SERVICE TO JUDSON COLLEGE.

WHEREAS, it is with highest commendation and honor that the Alabama Legislature recognizes Marian Acree Tucker as the recipient of the Doctor of Humane Letters degree for outstanding contributions and service to Judson College; and

WHEREAS, a graduate of the classes of 1926 and 1927, Mrs. Tucker earned a Bachelor of Music degree, with a major in piano and a minor in voice, and a Bachelor of Arts degree, with a major in English and a minor in Theoretical Music; and

WHEREAS, as owner and operator of the Tucker Insurance Agency in Dadeville for more than fifty years, she not only has been recognized as a successful businesswoman, but has earned the admiration and respect of the Dadeville and Tallapoosa County community as a devoted member of the First Baptist Church of Dadeville and for her active involvement in numerous civic organizations and endeavors, including the Daughters of the American Revolution; and

WHEREAS, as an active alumna of Judson College, Mrs. Tucker has contributed immeasurably in leadership and service as trustee (1978-1985) and as an active supporter of the Alumnae Association, and, through endowed scholarships, she has provided present and future generations of deserving students the opportunity to attain the benefits of an education at her alma mater; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding contributions and service and as the recipient of the Doctor of Humane Letters degree from Judson College, we hereby most highly commend Marian Acree Tucker, for whom a copy of this resolution of sincere praise and esteem shall be provided.

On motion of Senator Little, the Rules were suspended and the Resolution was adopted by the Senate.

Senators Little, Bailey, Amari, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders,

Smith (B), Smith (J), Waggoner, Wilson, and Windom requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 11. MOURNING THE DEATH OF THE REVEREND JOSEPH C. ESPY, JR., OF ABBEVILLE, ALABAMA.

WHEREAS, the Legislature of Alabama grievously records the death of the Reverend Joseph C. (Jack) Espy, Jr., of Abbeville, Alabama, on September 14, 1991, at the age of 79 years; and

WHEREAS, a lifelong resident of Abbeville, the Reverend Espy was a graduate of Draughon Business School and, prior to World War II, was Administrator of the Agricultural Adjustment Administration of Henry County; and

WHEREAS, following the war and service in the United States Army, he was a partner in both a dairy business and an oil business; he later became a rural mail carrier, retiring from the U. S. Postal Service after 35 years, and was a former bookkeeper for 25 years; and

WHEREAS, the Reverend Espy, also a Baptist minister for some 25 years, served almost equal tenures as pastor of the Old Zion and Judson Baptist Churches; and

WHEREAS, in addition to the responsibilities of his business and professional life, Mr. Espy provided outstanding community service through leadership involvement in such organizations as the Henry Masonic Lodge, Bradley-Keller American Legion Post, Abbeville Chamber of Commerce, Abbeville Quarterback Club, and the Letter Carriers Association, and was a former Abbeville City Councilman and former chairman of the Henry County Hospital Board; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of the Reverend Joseph C. (Jack) Espy, Jr., a prominent Alabamian, and extend heartfelt sympathy to his wife, Mrs. Emma Wood Espy; to his son and daughter-in-law, Joseph C. Espy, III, and Katie Espy; grandsons, Ben and Bill; and to other family members, whose sorrow we sincerely share, and for whom a copy of this resolution shall be provided.

On motion of Senator Little, the Rules were suspended and the Resolution was adopted by the Senate.

Senators Dixon, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 12. MOURNING THE DEATH OF RONALD E. ELLIOTT, SR., OF MONTGOMERY, ALABAMA.

WHEREAS, it is with deep sadness and sorrow that the Legislature records the death of Ronald E. Elliott, Sr., of Montgomery, Alabama, on February 3, 1992, at the age of 53 years; and

WHEREAS, a native of Pennsylvania, Mr. Elliott joined the United States Air Force in 1956 and served for twelve years at which time he became a member of the reserves; and

WHEREAS, Mr. Elliott came to Montgomery in 1971, where he has been a civil service employee with the Standard Systems Center at Gunter Air Force Base, and

WHEREAS, Mr. Elliott was affiliated with the Masonic Hiram-Tokoma Lodge Number 10, Washington, D.C., past Master of Capital Lodge No. 923, Montgomery, a Knight Commander Court of Honor of the Montgomery Scottish Rite Bodies, a past co-chairman Sovereign Grand Inspectors Generals Advisory Conference in Montgomery, and

WHEREAS, the death of Mr. Ronald E. Elliott, Sr., has indeed left a deep void in the life of his community and in the hearts of his loving family and many friends; now therefore,

BE IT RESOLVED BY THE SENATE OF THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Mr. Ronald E. Elliott, Sr., of Montgomery, Alabama, and extend deepest sympathy to his beloved wife, Mrs. Diana Elliott; to his five children: Ronald E. Elliott, Jr., Richard Elliott, Robert Elliott, Mrs. Vicky George, and Mrs. Valerie Camp; to his mother, Mrs. Ruth Amos, and to other family members, for whom a copy of this resolution shall be provided that they may know of our shared sorrow in their loss.

On motion of Senator Dixon, the Rules were suspended and the Resolution was adopted by the Senate.

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ADJOURNMENT

At 4:50 P.M., on motion of Senator Preuitt, in accordance with Motion heretofore adopted, the Senate adjourned until Wednesday, February 12, 1992, at 9:45 A.M.

FOURTH LEGISLATIVE DAY
WEDNESDAY, FEBRUARY 12, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by Senator Bobby Denton, First Senatorial District.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Fredrick Reynolds, Robert E. Lee High School, Montgomery, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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**REPORT OF COMMITTEE
ON RULES ON
REVISION OF THE JOURNAL**

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Third Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator deGraffenried, leave of absence was granted Senators Barron and Ghee for today.

RECESS

At 9:58 A.M., on motion of Senator deGraffenried, the Senate took a recess until 2 o'clock P.M.

At 2 o'clock P.M., the recess period having expired, the Senate was called to order by President Pro Tempore deGraffenried. A quorum of the Senate was present.

NOTICES IN WRITING

Senator Windom offered the following Notice in Writing, to-wit:

NOTICE IN WRITING

Notice is hereby given that I intend to file a motion in writing on the next legislative day to amend the Senate Rules as follows:

Amend Rule 51 by adding a sub-section 51(c) which shall read as follows:

Subsection 51(b) shall not apply to any local bill reported favorably out of the Local Legislation III Committee prior to the adoption of subsection 51(b).

Which was read and ordered filed with the Secretary.

Senator Windom then offered the following Notice in Writing, to-wit:

NOTICE IN WRITING

Notice is hereby given that I intend to file a motion in writing on the next legislative day to amend the Senate Rules as follows:

Amend Rule 51 by deleting sub-section 51(b).

Which was read and ordered filed with the Secretary.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 13. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bills in the order named shall be the paramount and continuing order of business taking precedence over all other matters for the fourth legislative day of the 1992 Regular Session only:

Committee Reports

	Page
S. 73	16
United States congressional dists., redistricted, Sec. 17-20-1 am'd.	
S. 80	18
Alabama Farm Bureau Federation, name changed to Alabama Farmers Federation, Secs. 2-3-24, 2-19-130, 2-26-71, 2-27-6, 2-27-30, 9-8A-3, 41-9-243 am'd.	
S. 117	15
Community development dists., social clubs licensing and sale of alcoholic beverages	
S. 104	3
Indian Housing Authority estab., appt. and terms of membs. and officers, powers	

Senator Dixon offered the following substitute for the Resolution, SR 13, to-wit:

SUBSTITUTE FOR SR 13

SR 13. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bills in the

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order named shall be the paramount and continuing order of business taking precedence over all other matters for the fourth legislative day of the 1992 Regular Session only:

Committee Reports

	Page
S. 80	18
Alabama Farm Bureau Federation, name changed to Alabama Farmers Federation, Secs. 2-3-24, 2-19-130, 2-26-71, 2-27-6, 2-27-30, 9-8A-3, 41-9-243 am'd.	
S. 117	15
Community development dists., social clubs licensing and sale of alcoholic beverages	
S. 104	3
Indian Housing Authority estab., appt. and terms of membs. and officers, powers	

On motion on Senator Preuitt, said substitute was laid on the table.

Yeas 19 Nays 10

Yeas:

Senators:

Bennett, Campbell, Corbett, deGraffenried, Denton, Dial, Ellis, Floyd, Foshee, Langford, Lindsey, Little, Mitchem, Owens, Parsons, Preuitt, Smith (J), Wilson, and Windom

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Nays:

Senators:

Amari, Bedsole, Bolling, Dixon, Hale, Hilliard, Horn, Lipscomb, Mitchell, and Waggoner

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Senator Dixon then offered the following substitute No. 2, for the Resolution, SR 13, to-wit:

SUBSTITUTE NO. 2 FOR SR 13

SR 13. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bills in the order named shall be the paramount and continuing order of business taking precedence over all other matters for the fourth legislative day of

the 1992 Regular Session only:

Committee Reports

	Page
S. 80	18
Alabama Farm Bureau Federation, name changed to Alabama Farmers Federation, Secs. 2-3-24, 2-19-130, 2-26-71, 2-27-6, 2-27-30, 9-8A-3, 41-9-243 am'd.	
S. 104	3
Indian Housing Authority estab., appt. and terms of membs. and officers, powers	

On motion of Senator Preuitt, said substitute was laid on the table.

Yeas 18 Nays 8

Yeas:

Senators:

Bennett, Campbell, Corbett, deGraffenried, Denton, Dial, Floyd, Foshee, Langford, Lindsey, Little, Mitchem, Owens, Parsons, Preuitt, Smith (J), Wilson, and Windom -18

Nays:

Senators:

Amari, Bedsole, Bolling, Dixon, Ellis, Hale, Horn, and Mitchell - 8

On motion of Senator Preuitt, the Resolution was then adopted by the Senate.

SPECIAL ORDER REPORTS OF COMMITTEES

The Senate proceeded to consideration of the special, paramount, and continuing order of business for today, the first item of which was Reports of Committees:

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Corbett:

S. 243. To amend further section 25-4-78, Code of Alabama

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1975, relating to disqualifications for unemployment compensation benefits effective January 1, 1993, so as to remove lockout from the disqualifications.

By Senator Corbett:

S. 246. To amend Section 11-45-9.1, Code of Alabama 1975, which relates to the issuance of a summons and complaint by municipalities for violations of certain Class C misdemeanors and ordinances, so as to provide further for the violations.

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendments, and it was read a second time and placed on the calendar, to-wit:

By Senators Bailey, Foshee, deGraffenried, Hale, Bennett, Windom, Dixon, and Dial (With Amendments):

S. 99. To mandate conversion rights for an employee or a member or his or her dependents under a group policy delivered or issued for delivery in this state which provides hospital, surgical or major medical expense insurance or any combination thereof, when said employee or member dies or when said employee's, member's or a dependent's group insurance has been terminated for any reason except: (a) nonpayment of any required contribution; or (b) replacement of any discontinued group coverage with similar group coverage within 31 days; to prescribe certain minimum benefit levels and the scope of coverage to be contained within the converted policy; to allow for termination of coverage under the converted policy due to an insured becoming eligible for Medicare coverage or coverage under any other group policy or plan; and to allow for optional group coverage in lieu of the issuance of a converted individual policy.

Senator Smith (J), Chairperson of the Standing Committee on Health, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Little:

S. 5. To amend Section 22-14-5, Code of Alabama 1975, which provides for the members of the radiation advisory board of

health, so as to include a veterinarian on the board.

By Senators Mitchell, Waggoner, Amari, Lipscomb, Preuitt, Bolling, Denton, Dial, Barron, Dixon, Owens, Little, Hale, Windom, Ghee, Bailey, Foshee, Smith (J), Mitchem, and Ellis:

S. 72. To require public schools in Alabama to emphasize responsible sexual behavior and prevention of illegal drug use in those programs and curriculum that include instruction on such subjects; to specify the minimum contents to be included in that instruction; and to outline conduct that is improper or unlawful for school-age children.

Senator Smith (J), Chairperson of the Standing Committee on Health, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senators Dixon and Langford (With Substitute):

S. 251. To amend Sections 34-9-8, 34-9-16, 34-9-40, 34-9-43, 34-9-63, and 34-9-64, Code of Alabama 1975; to increase certain fees related to the practice of dentistry and dental hygiene; to provide for nominations for election to the Board of Dental Examiners; to require the Board of Dental Examiners to publish a list of licensees at certain times; and to provide for the issuance of permits for the practice of parenteral sedation.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Dial:

S. 29. To amend Section 28-3-55 of the Code of Alabama 1975, relating to the "cost of evidence fund" of the Alcoholic Beverage Control Board, to increase the monetary amount at which the fund shall be maintained.

By Senator Lindsey:

S. 120. To amend Section 9-13-82, Code of Alabama 1975, relating to forest products privilege and severance taxes.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Denton (With Substitute):

S. 195. Relating to the eradication and control of swine diseases; to make a conditional appropriation to the Department of Agriculture and Industries for the fiscal year ending September 30, 1993, to indemnify owners of swine for the value of any swine ordered condemned and destroyed for the prevention and eradication of the disease of hog cholera, African swine fever and other swine diseases.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senator Foshee (With Amendment):

S. 207. To amend Alabama Code §36-29-1 (1975) to provide that employees in District Attorney Offices shall be allowed to purchase time employed with a District Attorney prior to the enactment of Act 82-621, to provide that District Attorneys are hereby authorized to pay the employer's share of any contribution for said time, to provide for severability and to provide an effective date.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Hale:

S. 11. To amend Section 15-22-54 of the Code of Alabama 1975, relating to arrest and disposition of person violating terms of probation so as to allow the execution of a sentence be maintained, amended or revoked; and to provide that the court may modify the imprisonment period originally pronounced.

By Senator Dial:

S. 30. To amend Section 20-2-90 of the Code of Alabama

1975, to authorize that the agents and officers of the Alcoholic Beverage Control Board also enforce the Alabama Uniform Controlled Substance Act.

By Senator Foshee:

S. 55. To amend Section 28-3A-25, Code of Alabama 1975, to provide further for unlawful acts, offenses, and penalties affecting certain persons under the alcoholic beverage licensing code.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senator Waggoner (With Amendment):

S. 70. To amend Section 32-5-76 of the Code of Alabama 1975, to provide for loads on motor vehicles to be covered and secured and to provide for exemptions.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Owens:

S. 108. To amend Section 32-7-8, Code of Alabama 1975, relating to the Motor Vehicle Safety-Responsibility Act, so as to change the time of suspension of driver's licenses from one year to two years and the elapsed time when such security was required from one year to two years.

By Senator Little:

S. 127. To allow the transfer of foreign nationals imprisoned in Alabama to the country of their citizenship.

By Senator Little:

S. 128. To amend Section 41-9-625, Code of Alabama 1975, relating to the Alabama Criminal Justice Information Center Com-

mission, so as to permit the commission to adopt policies regarding the collection, storage and dissemination of criminal history information which conform to those of the Federal Bureau of Investigation's National Crime Information Center and the criminal history repositories of other states and to repeal Sections 41-9-639 and 41-9-641, Code of Alabama 1975.

By Senator Denton:

S. 198. To amend Section 13A-5-40, Code of Alabama 1975, which provides for capital offenses, so as to include murder committed while trafficking in controlled substances as a capital offense.

By Senator Floyd:

S. 203. To direct the Department of Corrections and the Board of Pardons and Paroles to perform certain investigations and procedures in domestic violence and related cases.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senator deGraffenried (With Amendment):

S. 95. Authorizing the owner of goods for sale to bring a civil action to recover damages from any person who commits or attempts to commit a theft of the goods and specifying the damages therefor; and providing for a delayed effective date.

Senator deGraffenried, Chairperson of the Standing Committee on Public Welfare, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator deGraffenried:

S. 190. To adopt and incorporate into the Code of Alabama 1975 those general and permanent laws of the state enacted during the 1991 Regular and First Special Sessions of the Legislature, as contained in the 1991 Cumulative Supplement to certain volumes of the Code and in the 1991 Replacement Volumes 18, 19, 19A, 22, and 22A of the

Code; and to make corrections in certain volumes of the cumulative supplement and the 1991 Replacement Volume 18.

Senator Bennett, Chairperson of the Standing Committee on Education, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senators Smith (J) and Bennett:

S. 59. To amend Section 16-13-52, Code of Alabama 1975, to provide an alternative method for determining the number of teacher units for each public school.

Senator Bennett, Chairperson of the Standing Committee on Education, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senators Amari, Bennett, Parsons, Denton, Windom, Waggoner, and Floyd (With Amendment):

S. 233. To provide for the college tuition of certain students in financial need to be paid by the state; to provide eligibility requirements for such payment; and to provide for the funding and implementation of the program.

Senator Campbell, Chairperson of the Standing Committee on Local Legislation No. 1, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Corbett (With Notice and Proof):

S. 54. Relating to Bullock County; providing that the members of the county commission and county board of education shall run for election from four single-member districts and elected for staggered terms; providing that the chairman of each body shall run for election at-large; providing that the county commission shall develop said districts; and providing for a referendum.

By Senator Mitchell (With Notice and Proof):

S. 64. To alter, rearrange and extend the boundary lines and

corporate limits of the municipality of Luverne in Crenshaw County.

BILL RE-REFERRED

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the Bill, SB 249, and ordered same returned to the Senate with the recommendation that it be re-referred to another Committee.

And the President and Presiding Officer of the Senate ordered said Bill, SB 249, re-referred to the Standing Committee on Judiciary/Civil.

MOTIONS IN WRITING

Senator Windom offered the following Motions in Writing, to-wit:

I move that the Bill, SB 66, on page 5 of the 4th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Also:

I move that the Bill, SB 113, on page 6 of the 4th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which were adopted, and the President and Presiding Officer of the Senate ordered said Bills, SB's 66 and 113, referred to the Standing Committee on Rules for placement on the Consent Calendar.

BUDGET ISOLATION RESOLUTION

Senator Bennett, B.I.R., SB 73, lost.

Yeas 12 Nays 15

Yeas:

Senators:

Bennett, Campbell, deGraffenried, Denton, Dial, Lindsey, Little,
Mitchell, Owens, Parsons, Preuit, and Sanders -12

Nays:

Senators:

Amari, Bedsole, Bolling, Dixon, Ellis, Floyd, Foshee, Hale, Hilliard,
Horn, Langford, Lipscomb, Mitchem, Waggoner, and Windom -15

BUDGET ISOLATION RESOLUTION RECONSIDERED

On motion of Senator Foshee, the Senate reconsidered the vote by

which the B.I.R., SB 73, was lost.

And said Bennett B.I.R., SB 73, was again lost, for failure to receive the required three-fifths of those voting.

Yeas 15 Nays 14

Yeas:

Senators:

Bennett, Campbell, deGraffenried, Denton, Floyd, Foshee, Lindsey, Little, Mitchell, Owens, Parsons, Preuit, Sanders, Smith (J), and Wilson -15

Nays:

Senators:

Amari, Bailey, Bedsole, Bolling, Dixon, Ellis, Hale, Hilliard, Horn, Langford, Lipscomb, Mitchem, Waggoner, and Windom -14

MESSAGE FROM THE HOUSE

Mr. President Pro Tem:

The Speaker of the House having signed the following House Joint Resolutions, your signature thereto is requested.

HJR 5. COMMENDING CARRIE KIMBRELL MELTON OF DECATUR, ALABAMA.

Also:

HJR 6. COMMENDING THE EAST LAWRENCE HIGH SCHOOL VARSITY CHEERLEADERS FOR OUTSTANDING ACHIEVEMENT.

Also:

HJR 8. COMMENDING ROBERT CLARK OF CITRONELLE, ALABAMA, UPON HIS RETIREMENT.

Also:

HJR 9. COMMENDING KAREN MICHELLE PALMORE FOR OUTSTANDING ACADEMIC ACHIEVEMENT.

Also:

HJR 10. CONGRATULATING MRS. IZZIE LARKIN ROWE ON THE OCCASION OF HER 100TH BIRTHDAY.

Also:

HJR 11. MOURNING THE DEATH OF BILLY GRAY OF BIRMINGHAM, ALABAMA.

Also:

HJR 13. URGING CONGRESS TO ENACT DOLE COMMISSION RECOMMENDATION CONCERNING HEALTH BENEFITS FOR RETIRED COAL MINERS.

Also:

HJR 14. COMMENDING BENJAMIN BARTON THOMAS OF INDIAN SPRINGS, ALABAMA.

Also:

HJR 15. MOURNING THE DEATH OF HARRY INGE JOHNSTONE OF MOBILE, ALABAMA.

Also:

HJR 16. CREATING THE NORTHWEST ALABAMA STATE JUNIOR COLLEGE HISTORICAL COMMISSION.

Also:

HJR 17. COMMENDING TOMMY KNIGHT UPON HIS RETIREMENT.

Also:

HJR 18. COMMENDING THE REVEREND DR. JAMES E. COOK OF GREENVILLE, ALABAMA.

Also:

HJR 19. COMMENDING JAMES LARRY BEATY OF OPELIKA, ALABAMA.

Also:

HJR 20. COMMENDING STAFF SERGEANT TIMOTHY L. HARBARGER, RECIPIENT OF THE SOLDIER'S MEDAL.

Also:

HJR 25. COMMENDING DAVID C. BROWN UPON HIS RETIREMENT FROM THE UNIVERSITY OF NORTH ALABAMA.

Also:

HJR 27. HONORING J. B. COKER FOR 45 YEARS OF SERVICE TO THE ALABAMA FORESTRY COMMISSION.

Also:

HJR 28. RECOGNIZING THE ALABAMA SPORTS FESTIVAL FOR ITS OUTSTANDING PERFORMANCES AND SERVICES TO THE AMATEUR ATHLETES OF THE STATE OF ALABAMA DURING THE CELEBRATION OF ITS TENTH YEAR "DIAMOND ANNIVERSARY" AND DESIGNATING IT AS ALABAMA'S ONLY OLYMPIC-STYLE STATE GAMES PROGRAM.

Also:

HJR 30. DESIGNATING FEBRUARY 12, 1992, AS "RURAL AMERICA AND TUSKEGEE UNIVERSITY FARMERS CONFERENCE CENTENNIAL CELEBRATION 1992 DAY" IN ALABAMA.

Also:

HJR 31. MOURNING THE DEATH OF CLAUDE LAMAR NELSON OF DECATUR, ALABAMA.

Also:

HJR 32. RECOGNIZING WITH COMMENDATION THE LONG-ESTABLISHED RELATIONSHIP OF ALBERTVILLE, ALABAMA, AND ALBERTVILLE, FRANCE, AS SISTER CITIES.

Also:

HJR 34. RELATIVE TO MEETING DAYS.

GREG PAPPAS,
Clerk.

SIGNING OF RESOLUTIONS

The President Pro Tempore of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a

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4th Day

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two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolutions, the titles of which are set out in the foregoing Message from the House.

BUDGET ISOLATION RESOLUTION

Senator Owens, B.I.R., SB 80, offered.

ADJOURNMENT

At 3:22 P.M., on motion of Senator Amari, pending further consideration of the Bill, SB 80, the Senate adjourned until Tuesday, February 18, 1992, at 2 o'clock P.M.

FIFTH LEGISLATIVE DAY

TUESDAY, FEBRUARY 18, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by the Reverend Billy Duncan, Pastor, Highland Avenue Baptist Church, Montgomery, Alabama.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Heather LaDonna Ammons, Goodwyn Junior High School, Montgomery, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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REPORT OF COMMITTEE ON RULES ON REVISION OF THE JOURNAL

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Fourth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator deGraffenried, leave of absence was granted Senator Dial for today.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 14. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bill shall be the paramount and continuing order of business taking precedence over all other matters for the fifth legislative day of the 1992 Regular Session only:

S. 73

United States congressional dists., redistricted, Sec. 17-20-1 am'd.

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On motion of Senator Preuitt, the Resolution was adopted by the Senate.

BUDGET ISOLATION RESOLUTION

Senator Owens, B.I.R., SB 80, adopted.

Yeas 21 Nays 8

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, deGraffenried, Dixon, Ellis, Foshee, Ghee, Hale, Horn, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuitt, Smith (J), and Waggoner

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Nays:

Senators:

Campbell, Figures, Floyd, Langford, Lindsey, Parsons, Wilson, and
Windom - 8

UNFINISHED BUSINESS BILLS ON THIRD READING

The Senate proceeded to consideration of the Unfinished Business for today, which was the Bill:

S. 80. To amend Sections 2-3-24, 2-19-130, 2-26-71, 2-27-6, 2-27-30, 9-8A-3 and 41-9-243, Code of Alabama 1975, relating to the membership of certain committees, organizations and commissions acting in connection with farmers and agriculture, so as to reflect the change in name of Alabama Farm Bureau Federation to Alabama Farmers Federation; and to ratify and confirm all actions taken under the authority of said sections of the Code of Alabama 1975 by Alabama Farmers Federation or its officers, as the successor to Alabama Farm Bureau Federation.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senator Horn:

S. 269. To amend Act No. 91-679, H. 261 of the 1991 Regular Session; to provide that certain appropriations for the Sickle Cell Education Program appropriated for the north Alabama area will be appropriated to the North Alabama Sickle Cell Association/Alabama A & M University; to provide for the transfer of the funds; and to designate a fiscal agent.

Committee on Finance
and Taxation

By Senator Denton:

S. 270. To amend Sections 39-1-1, 39-2-2, 39-2-3, 39-2-5, 39-2-9 and 39-2-12, Code of Alabama 1975, relating to public contracts, so as to increase the amount of contracts for which bonds are required and to allow certain security to be used in lieu of a bond for contracts under \$20,000.00; to increase the bid amount requiring formal advertising; to

eliminate the \$5.00 proposal fee and combine proposal, plan, and specification fee; to increase the maximum amount for bid bonds; to extend the periods of time within which bids must be returned; to extend the period of time allowed for approval of the bond and execution of the contract; and to allow payment for materials suitably stored off the job site.

Committee on Small Business

By Senator Denton:

S. 271. To amend Sections 13A-6-66 and 13A-6-67, Code of Alabama 1975, which relate to the crimes of sexual abuse in the first and second degrees, so as to increase the punishment for both crimes.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Denton:

S. 272. To amend Section 8-17-217, Code of Alabama 1975, relating to permissible fireworks, to exclude bottle rockets specifically from the definition of fireworks that may be sold within the state by establishing minimum size requirements for sky rockets, but to provide that such devices may be stored by licensed manufacturers, distributors and wholesalers within the state for sale outside the state, and to provide for an effective date.

Committee on Consumer Affairs

By Senator Denton:

S. 273. Relating to the conduct of municipal elections; amending Sections 11-46-5, 11-46-24, and 17-9-4, respectively, of the Code of Alabama 1975, to: (1) further provide for municipalities having general and run-off elections at a time different from Article 2, Chapter 46 of Title 11, Code of Alabama 1975, to allow a change of time, by ordinance, consistent with that article; (2) provide for the number of qualified voters assigned to the electronic voting machines in municipal elections; (3) establish the minimum time before an election that election officials may be named.

Committee on Governmental
Affairs/Local Government

By Senator Parsons:

S. 274. To provide for a further exception to the requirement

that a certain number of state employees must request a specific salary deduction before the specific deduction can be made by the state comptroller and delete the authority to make deductions for group insurance premiums.

Committee on Judiciary/Civil

By Senators Corbett and Campbell:

S. 275. To amend Section 11-43-143, Code of Alabama 1975, relating to employee organizations of firefighters to provide a procedure for a written response from the employing governing body to proposals from firefighters.

Committee on Economic Affairs

By Senator Windom:

S. 276. To propose a constitutional amendment to amend Sections 6.17 and 6.18 of Amendment 328 of the Constitution of Alabama of 1901, establishing the Judicial Inquiry Commission and the Court of the Judiciary, to provide that the District Judges' Association shall appoint two district judges to serve as members of the Judicial Inquiry Commission and Court of the Judiciary.

Committee on Constitution
and Elections

The above Bill was read a first time at length as required by the Constitution.

By Senator Foshee:

S. 277. To propose an amendment to Article I, Section 14 of the Constitution of Alabama of 1901 so as to waive the defense of sovereign immunity for claims based on breach of a written contract.

Committee on Commerce,
Transportation, and Utilities

The above Bill was read a first time at length as required by the Constitution.

By Senator Foshee:

S. 278. To provide for an exemption from taxation for contrac-

tors performing public works contracts for payment of any additional severance and sales and use taxes incurred as a result of increases in the rate of severance and sales and use taxes imposed during the performance of the contract.

Committee on Commerce,
Transportation, and Utilities

By Senator Foshee:

S. 279. To require that the Department of Examiners of Public Accounts audit the books, records, and accounts of the Department of Public Safety on an annual basis to determine if the department has utilized the funds and fees appropriated to it in the manner required by Section 40-12-274, Code of Alabama 1975, and Act No. 91-252, H. 556, 1991 Regular Session.

Committee on Commerce,
Transportation, and Utilities

By Senator Owens:

S. 280. To amend Section 6-11-27 of the Code of Alabama 1975, relating to the liability of a principal, employer, or other master for the certain acts or omissions of an agent, employee, or servant to further provide for certain circumstances where the principal, employer, or master would not be liable for wantonness of an agent, employee, or servant; and to provide a procedure for notice and settlement of claims against a principal, employer, or servant prior to bringing a civil action for punitive damages under certain circumstances.

Committee on Small Business

By Senator Bedsole:

S. 281. To amend Section 9-12-113, Code of Alabama 1975, relating to the license for saltwater commercial hook and line fishing and saltwater net or seine fishing, so as to delete certain language in the definition of "nonresident"; to specifically provide that the licenses provided for in this section shall be issued on an individual basis only; and to provide for the confiscation, holding, and forfeiture of boats, motors, and fishing gear of persons fishing nets and seines illegally.

Committee on Agriculture,
Conservation, and Forestry

By Senator Bedsole:

S. 282. To establish the Alabama State Capitol Historic Preservation Trust Fund.

Committee on Finance
and Taxation

By Senator Ellis:

S. 283. To create the Captive Wild Animal Protection Act; to define certain terms; to require owners of wild animals to obtain permits issued by the Commissioner of the Department of Conservation and Natural Resources; to provide for certain exemptions; to require certain information from permittees to prohibit certain activities; and to provide for penalties for violations.

Committee on Agriculture,
Conservation, and Forestry

By Senator Bedsole:

S. 284. To amend Sections 44-1-51 and 44-1-53, Code of Alabama 1975, relating to the Youth Services Board to provide for the expansion of membership to the board, for compensation to the board, and the requirements for a quorum at board meetings.

Committee on Governmental
Affairs/State Administration

By Senators Mitchell and Bennett:

S. 285. To provide for a civil cause of action against certain employers who take action detrimental to certain defined employees because the employee reports a violation of law or participates in a formal inquiry or court action.

Committee on Governmental
Affairs/State Administration

By Senator Horn:

S. 286. To amend Section 41-22-27, Code of Alabama 1975, relating to the Administrative Procedure Act, so as to provide that the Alabama department of environmental management shall fully comply

with the provisions of the act.

Committee on Commerce,
Transportation, and Utilities

By Senator Langford:

S. 287. Providing group health insurance for certain retired judges of probate in the state employees group health insurance plan and providing that such retired judges shall pay the entire cost for having such group health insurance during retirement.

Committee on Public Welfare

By Senator Horn:

S. 288. To create and establish the Alabama School of Fine Arts to be governed by a board of trustees.

Committee on Finance
and Taxation

By Senator Corbett:

S. 289. To amend Sections 16-8-10 and 16-11-18, Code of Alabama 1975, relating to written policies of county and city boards of education to require the written policies be made available to all persons affected and employed by the board.

Committee on Education

By Senator Floyd:

S. 290. To amend Section 6-2-8 of the Code of Alabama 1975, relating to the suspension of the limitation on commencing a civil action and on exercising certain civil rights due to disabilities by prisoners.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Floyd:

S. 291. To amend the Alabama Juvenile Justice Act, Sections 12-15-1, 12-15-33, 12-15-65, 12-15-71.1, Code of Alabama 1975, so as to define further the term "Delinquent Act"; to provide further for the

transfer of certain cases to the juvenile court from other courts; to provide further for the proceeding to allow a child to withdraw from school; and to correct typographical errors in certain Code citations.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Figures:

S. 292. To amend Sections 8-19-3, 8-19-5, 8-19-6 and 8-19-8, Code of Alabama 1975, relating to the Deceptive Trade Practices Act, to add provisions relating to promotional giveaways, credit repair services, campground membership facilities, career consulting firms, loan brokers, health spas, and odometers; and provide misdemeanor and felony penalties for specific violations.

Committee on Small Business

By Senator Foshee:

S. 293. To require certain persons or entities to obtain a certification from the State Department of Public Health before conducting utilization reviews for covered medical insurance services.

Committee on Economic Affairs

COMMITTEE REPORT FILED

Pursuant to the provisions of Act No. 91-733, the report of the Joint Interim Legislative Committee to Study the Pricing of Gasoline in Alabama was filed with the Secretary.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper (With Notice and Proof):

H. 72. Relating to Mobile County; amending Act No. 85-339, H. 187, 1985 Regular Session, which prohibits the use of red clay on the beaches of Dauphin Island, so as to provide further for such prohibition.

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I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 72, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

**GREG PAPPAS,
Clerk.**

Also:

By Rep. Harper (With Notice and Proof):

H. 74. Relating to Mobile County; to amend Act No. 86-545, S. 655, 1986 Regular Session, which creates a County Racing Commission, to delete the residency requirements for certain applicants, owners, and employees; to alter the permissible number of racing days; to authorize a licensee to receive and transmit certain racing broadcasts and to provide that wagering on broadcasts shall be subject to the same commissions as live racing; to further provide for the tax on the contributions to all pari-mutuel pools, the licensees' amount of commission, and the distribution of amounts due on outstanding unredeemed mutuel tickets; to require certain funds be used for capital improvements; to provide further for the distribution of monies received under this act; and to regulate the expenditures of the commission.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 74, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

**GREG PAPPAS,
Clerk.**

*Greg Pappas,
Clerk.*

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committee, as follows:

HB's 72 and 74 - to the Committee on Local Legislation No. 3

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills

and ordered same sent forthwith to the Senate without engrossment:

By Rep. Turner (With Notice and Proof):

H. 36. Relating to the City of Wilmer in Mobile County; to amend Section II of Act No. 470, H. 952, 1939 Regular Session (Local Acts 1939, p. 298) as amended, which created and established the countywide civil service system in Mobile County, so as to provide further for exemptions and to provide for municipal employees to vote for removal from said system.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 36, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Carter (With Notice and Proof):

H. 130. Relating to Limestone County; authorizing the Limestone County Commission to establish and set the compensation of election officers.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 130, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Greg Pappas,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committees, as follows:

HB 36 - to the Committee on Local Legislation No. 3

HB 130 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Rep. Cullins (With Notice and Proof):

H. 58. Relating to Tallapoosa County; to give the county commission certain powers and authority in regard to performing work or services upon private property and selling material to churches, schools, individual or non-profit associations or corporations; setting the conditions under which such work can be done or materials sold; and establishing the procedure governing work on private property or the sale of materials under the provisions of this act.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 58, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Reps. Dolbare and Blakeney (With Notice and Proof):

H. 119. To provide that no municipality in Clarke County whose corporate limits do not lie within or extend into and embrace and include a portion of Choctaw County shall have or exercise police jurisdiction within Choctaw County; nor shall any such municipality exercise police jurisdiction, police powers or taxing powers within Choctaw County or over or on any person in Choctaw County or property or business or trade or profession in Choctaw County; nor shall any such municipality levy, fix or collect any license or fee of any kind in Choctaw County; nor shall any ordinance of any such municipality enforcing police or sanitation regulations or prescribing fines or penalties for violation thereof have force or effect in Choctaw County.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 119, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Carter (With Notice and Proof):

H. 126. Relating to Limestone County; to authorize the license commissioner to charge a fee for mailing boat licenses.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 126, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Carter (With Notice and Proof):

H. 127. Relating to Limestone County; providing that there shall be only one landfill in the county.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 127, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Carter (With Notice and Proof):

H. 128. Relating to Limestone County, repealing Act No. 88-411, H. 892, 1988 Regular Session, relating to the compensation of the chief deputy sheriff.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 128, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Carter (With Notice and Proof):

H. 129. Relating to Limestone County; providing authority for

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the county commissioners to provide assistance in the maintenance, restoration, care and protection of ancient cemeteries.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 129, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Greg Pappas,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committee, as follows:

HB's 58, 119, 126, 127, 128, and 129 - to the Committee on
Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Hammett (With Notice and Proof):

H. 49. Relating to Covington County; authorizing the judge of probate to issue boat licenses by mail and to allow an additional issuance fee to cover the expense of mailing such licenses.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 49, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Greg Pappas,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 49 - to the Committee on Local Legislation No. 1

FURTHER CONSIDERATION OF SB 80

The Senate proceeded to further consideration of the Bill, SB 80.

ADJOURNMENT

At 5 o'clock P.M., Senator deGraffenried moved that the Senate adjourn until Wednesday, February 19, 1992, at 10 o'clock A.M.

Senator Amari offered a substitute motion that the Senate adjourn until Wednesday, February 19, 1992, at 1 o'clock P.M., which motion was adopted, and at 5:05 P.M., pending further consideration of the Bill, SB 80, the Senate adjourned until Wednesday, February 19, 1992, at 1 o'clock P.M.

SIXTH LEGISLATIVE DAY
WEDNESDAY, FEBRUARY 19, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by Senator Larry Dixon, Twenty-Fifth Senatorial District.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Katie Blue, Bullock Memorial School, Union Springs, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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**REPORT OF COMMITTEE
ON RULES ON
REVISION OF THE JOURNAL**

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Fifth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator deGraffenried, leave of absence was granted Senators Dial, Figures, Langford, and Sanders for today.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senator Bennett:

S. 294. To amend Sections 22-30A-1 to 22-30A-5 and 22-30A-7 to 22-30A-10, inclusive, Code of Alabama 1975, relating to the Alabama Hazardous Substance Cleanup Fund to provide that the fund be used to investigate potential hazardous substance sites and to manage and remove materials and to provide that the liability of liable parties under this act is joint and several.

Committee on Commerce,
Transportation, and Utilities

By Senator Bennett:

S. 295. To establish reduction-in-force policies for certain public education institutions not having such policies.

Committee on Education

By Senator Bennett:

S. 296. To make a supplemental appropriation of \$675,000 from the Alcohol and Drug Abuse Court Referral Officer Trust Fund to the Mandatory Drug Treatment Program for the fiscal year ending Sep-

tember 30, 1992.

Committee on Finance
and Taxation

By Senator Foshee:

S. 297. To promulgate the "Private Enterprise and Employment Act of 1992" in order to promote the private enterprise system; to prohibit state government from starting or conducting any commercial or industrial activity to provide goods or services if such goods or services can be procured from any responsible private enterprise; to require state agencies starting or conducting a commercial or industrial activity to determine if there is a clearly identified and demonstrated economic advantage in starting or conducting such activity in the agency; to prohibit municipalities or political subdivisions from using state financial assistance to start or conduct any commercial or industrial activity to provide goods or services if such goods or services can be procured from any responsible private enterprise; to require any municipality or political subdivision using state financial assistance to start or conduct any commercial or industrial activity to determine that there is a clearly identified and demonstrated economic advantage to start or conduct such activity in the municipality or political subdivision; to require the adoption of appropriate rules to implement the provisions of this act; to require the Governor to submit to the Legislature a plan for the gradual elimination of industrial and commercial activities of government conducted in violation of the policies of this act; and to require municipalities and political subdivisions to issue a certificate relating to industrial and commercial activities before receiving state funds or financial assistance.

Committee on Public Welfare

By Senators Bolling, Foshee, and Bailey:

S. 298. To establish and provide for the "Tuition Guaranty Fund" in the State Treasury to reimburse students or entities which make loans to students of certain proprietary (for profit) postsecondary educational institutions which close prior to earning the tuition collected from their students.

Committee on Finance
and Taxation

By Senator Bedsole:

S. 299. To allow any active and contributing member of the Employees' or Teachers' Retirement System who has been an active

member of the system for six consecutive years or more to purchase up to a certain amount of credit for active military service in his or her retirement system.

Committee on Finance
and Taxation

By Senator Horn:

S. 300. Relating to the Teachers' Retirement System; reopening the system for purchase of certain service credit in the system by certain active members of the system; providing for the manner of payment of the cost of the prior service credit; providing for the expiration of the reopening period; and providing for a delayed effective date.

Committee on Finance
and Taxation

By Senator Horn:

S. 301. To amend Section 36-27-49.3 of the Code of Alabama 1975, to provide for purchase of military service credit in the judicial retirement fund.

Committee on Finance
and Taxation

By Senators Horn and Campbell:

S. 302. Making a supplemental appropriation to the State Department of Examiners of Public Accounts for the 1991-92 fiscal year.

Committee on Finance
and Taxation

By Senator Denton:

S. 303. Providing for the permitting and regulation of persons, firms, associations and corporations engaged in the alarm systems business in this state under the regulatory authority of the state fire marshal; authorizing the state fire marshal to prescribe fees for certain permits and identification cards related to such business; prescribing penalties for enforcement and providing procedures for the administration of this act.

Committee on Small Business

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By Senator Bennett:

S. 304. To allow the officers and employees of the American Federation of Teachers in Alabama to elect to participate in the teachers' retirement system.

Committee on Finance
and Taxation

By Senators Smith (J) and Bedsole:

S. 305. To appropriate from the general fund of the state treasury the sum of \$1,000,000.00 for the fiscal year ending September 30, 1992, to the Department of Agriculture and Industries Agricultural Development Services Program, which sum shall be allocated to the Boll Weevil Eradication Foundation for use in boll weevil eradication; to provide that such appropriation shall be supplemental.

Committee on Agriculture,
Conservation, and Forestry

By Senator Floyd:

S. 306. Reopening the Employees' Retirement System for purchase of prior service credit by certain officers and employees of the City of Gadsden that are active and contributing members of the system on a certain date; and providing for payment of the cost of the prior service credit.

Committee on Finance
and Taxation

By Senator Smith (J):

S. 307. To provide further for the subsistence allowance of law enforcement officers to include officers with the Department of Corrections and to amend Section 36-21-2, Code of Alabama 1975.

Committee on Judiciary/Civil

By Senator Bennett:

S. 308. To amend Section 9-14-29, Code of Alabama 1975, relating to the applicability of the provisions of Article 2 of Chapter 14 of Title 9 of the Code of Alabama 1975, so as to add an exemption for

concession operations receiving gross receipts of \$100,000.00 or less annually.

Committee on Economic Affairs

MOTIONS IN WRITING

Senator Foshee requested and received permission to suspend the Rules in order to offer the following Motion in Writing, to-wit:

I move that the Bill, SB 26, on page 6 of the 6th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 26, referred to the Standing Committee on Rules for placement on the Consent Calendar.

Senator Denton requested and received permission to suspend the Rules in order to offer the following Motion in Writing, to-wit:

I move that the Bill, SB 61, on page 11 of the 6th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 61, referred to the Standing Committee on Rules for placement on the Consent Calendar.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Biddle (With Notice and Proof):

H. 156. Relating to the Tenth Judicial Circuit in Jefferson County, amending Act No. 90-542, S. 637, 1990 Regular Session, to increase the number of Deputy District Attorneys in the circuit.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 156, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

And sends same herewith to the Senate for its consideration.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 156 - to the Committee on Local Legislation No. 2

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Rep. Drake (With Notice and Proof):

H. 144. Relating to Cullman County; providing for the collection of gasoline taxes by the State Revenue Department.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 144, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

**GREG PAPPAS,
Clerk.**

Also:

By Rep. Warren (With Notice and Proof):

H. 297. Requiring the mailing addresses of the grantor and grantee to be in the body of an instrument used for conveyance of real property in Conecuh County and providing for a delayed effective date.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 297, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

**GREG PAPPAS,
Clerk.**

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committee, as follows:

HB's 144 and 297 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Reps. Grayson, Butler, Haney, and Freeman:

H. 62. Permitting members of a board of education of a Class 3 municipality to be elected from districts, and at times, as determined by the governing body of the municipality.

Also:

By Reps. Grayson, Butler, Haney, and Freeman:

H. 63. To revise the procedural requirements for increasing the number of city council districts in a Class 3 municipality.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committee, as follows:

HB's 62 and 63 - to the Committee on Governmental Affairs/Local Government

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills

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and ordered same sent forthwith to the Senate without engrossment:

By Reps. Rogers (F), Sanderson, Newton (D), Hawkins, Gaines, Petelos, Barnes, Spratt, Curry, and Morton (With Notice and Proof):

H. 61. To authorize the Board of Managers of the City of Birmingham Retirement and Relief System to consider the application of Donald C. Waid for a pension based upon extraordinary disability and to award such pension if, in the judgment of the Board of Managers, such pension is required, and to provide for the conditions and limitations applying to such pension.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 61, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Reps. Rogers (F), Petelos, Gaines, Barnes, Spratt, Curry, and Morton (With Notice and Proof):

H. 64. To alter, rearrange and extend the boundary lines and corporate limits of the City of Grayville, Jefferson County, annexing certain territory to the city.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 64, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Reps. McDowell, McClain, and Curry (With Notice and Proof):

H. 118. To amend Act No. 929, S. 676, 1951 Regular Session, as amended, which created a Retirement and Relief System for officers and employees of the City of Birmingham, so as to provide benefits for surviving spouses of participants of the Supplemental Pension System and

to provide for retroactive effect.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 118, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committee, as follows:

HB's 61, 64, and 118 - to the Committee on Local Legislation
No. 2

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Morrow (With Notice and Proof):

H. 101. Relating to Franklin County; authorizing the County Commission to construct and maintain driveways for schools, churches and church owned cemeteries, and school bus turnarounds located within the county at county expense on any gravel road or driveway leading from a public road to the residence of an abutting landowner.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 101, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 101 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Rep. Zoghby (With Notice and Proof):

H. 26. Relating to Mobile County, amending Act No. 91-370, H. 891, 1991 Regular Session, which provides for the compensation of the license commissioner, so as to correct a typographical error.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 26, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

**GREG PAPPAS,
Clerk.**

Also:

By Rep. Zoghby (With Notice and Proof):

H. 27. Relating to Mobile County, amending Act No. 722, H. 1196, 1976 Regular Session, relating to issuance fees, so as to provide further for such fees.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 27, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

**GREG PAPPAS,
Clerk.**

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committee, as follows:

HB's 26 and 27 - to the Committee on Local Legislation No. 3

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Perdue (With Notice and Proof):

H. 55. Relating to Jefferson County, regulating the operation of tanning facilities and prescribing criminal and administrative penalties.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 55, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 55 - to the Committee on Local Legislation No. 2

COMMITTEE REPORT FILED

Pursuant to the provisions of Act No. 91-762, the report of the Joint Interim Legislative Committee on Water Resources was filed with the Secretary.

REPORT FROM RULES

Senator Preuitt, Chairperson of the Standing Committee on Rules, reported that said committee, in session, had acted on the following

House Joint Resolution and ordered same returned to the Senate with a favorable report, to-wit:

HJR 29. CREATING AN INTERNATIONAL AIRPORT PERMANENT LEGISLATIVE OVERSIGHT COMMITTEE.

And on motion of Senator Dixon, said Resolution, HJR 29, was concurred in and adopted by the Senate.

REPORTS OF COMMITTEES

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Windom (With Substitute):

S. 216. Relating to employees and employee classifications and benefits of state employees employed at the Alabama State Docks Department facilities; to authorize the same employee and family benefits for certain state employees employed at the Alabama State Docks Department facilities who are not receiving the benefits available to other State Docks facility state employees; to offer benefits to state employees covered by collective bargaining agreements subject to union approval or disapproval; authorizing the departmental employers to make certain accrued liability as well as prospective contributions for certain benefits; and to authorize the Directors of the Alabama State Docks and State Personnel Departments and the Chief Executive Officer of the Employees' Retirement System of Alabama to expedite the terms of this act; and to provide for certain retroactive effect.

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senators Corbett and Campbell:

S. 275. To amend Section 11-43-143, Code of Alabama 1975, relating to employee organizations of firefighters to provide a procedure for a written response from the employing governing body to proposals from firefighters.

Senator Windom, Chairperson of the Standing Committee on Banking and Insurance, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Windom:

S. 60. Relating to motor vehicle insurance policies issued in Alabama, to provide for mandatory premium reductions for the liability, personal injury protection and collision coverages for certain age groups under certain conditions, to limit the application of said discounts and to exempt certain insurers from the provisions of this act.

Senator Windom, Chairperson of the Standing Committee on Banking and Insurance, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Foshee (With Substitute):

S. 213. To establish the Alabama Insurance Board to negotiate group health insurance coverage for all residents and their dependents of the State of Alabama who wish to acquire it and to make an appropriation.

Senator Windom, Chairperson of the Standing Committee on Banking and Insurance, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Bailey:

S. 260. To amend Section 26-16-30 of the Code of Alabama 1975, relating to the Children's Trust Fund, to provide for the investment of trust fund money.

Senator Preuitt, Chairperson of the Standing Committee on Rules, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Waggoner:

S. 57. To amend Section 41-9-450 of the Code of Alabama

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1975, which provides for the Alabama Sports Hall of Fame Board, so as to increase the membership of the Board from ten to fourteen members, and to give the Lieutenant Governor and the Speaker of the House each an appointment to the Board.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senators Hale, Dial, and Waggoner:

S. 201. To further provide for criminal procedure and to prescribe the conditions for the issuance of warrants for nighttime searches and seizures; and to repeal Sections 15-5-8 and 15-5-12 of the Code of Alabama 1975, relating to search warrants.

By Senator Floyd:

S. 202. To amend Section 32-10-5 of the Code of Alabama 1975, relating to the reporting of motor vehicle accidents.

By Senator Foshee:

S. 242. To amend Section 36-21-8, Code of Alabama 1975, as amended by Act 91-568, 1991 Regular Session, relating to certain law enforcement officers retaining their badge and pistol as part of retirement benefits, to include certain law enforcement officers who are employees of the Alabama Criminal Justice Information Center.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senator Dixon (With Amendment):

S. 250. To amend Article 1, Chapter 15, Title 12, Section 12-15-34 of the Code of Alabama 1975, relating to juvenile court proceedings to require the prosecutor to file a motion to transfer a child to criminal court for prosecution as an adult for conduct charged that would constitute an offense involving danger to the person; to expand the evidence to be considered by the court; to require the court to document

the reasons for not transferring a case involving danger to the person to criminal court; and to create a rebuttal presumption where the conduct charged would constitute an offense involving danger to the person, that the child should be transferred for criminal prosecution as an adult.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Dixon:

S. 252. To provide for the offense of carrying firearms on school premises or while being transported to or from school or a school-related activity on transportation provided by the school; and to prescribe penalties.

By Senators Lipscomb, Floyd, Little, Lindsey, Ellis, and Smith (J):

S. 257. To provide that the state administrator of the Interstate Compact for the Supervision of Parolees and Probationers shall have the authority to issue warrants for arrest of an out-of-state parolee or an out-of-state probationer when he has reason to believe that an offense or violation of parole or probation in an interstate compact case has been or is being committed; and to provide that he shall be available or on call on a 24-hour-a-day basis, seven days a week.

Senator Parsons, Chairperson of the Standing Committee on Judiciary/Civil, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Owens:

S. 79. To amend Section 32-5A-191 and Section 32-5A-194 of the Code of Alabama 1975, to reduce the blood alcohol level necessary to create a presumption of driving under the influence.

By Senator Ellis:

S. 249. To amend Section 12-18-6, Code of Alabama 1975, as amended, relating to eligibility for retirement of justices of the supreme court, judges of courts of appeals and judges of circuit courts, so as to

further provide therefor.

Senator Parsons, Chairperson of the Standing Committee on Judiciary/Civil, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Parsons (With Substitute):

S. 274. To provide for a further exception to the requirement that a certain number of state employees must request a specific salary deduction before the specific deduction can be made by the state comptroller and delete the authority to make deductions for group insurance premiums.

Senator Bedsole, Chairperson of the Standing Committee on Agriculture, Conservation, and Forestry, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Lindsey:

S. 220. To amend Sections 9-11-55 and 9-11-56, Code of Alabama 1975, relating to the license fee for nonresident fishing licenses.

By Senator Lindsey:

S. 221. To amend Sections 9-11-46, 9-11-47, 9-11-48, and 9-11-49, inclusive, Code of Alabama 1975, relating to nonresident hunting licenses, to increase the fees and to delete provisions relating to the length of deer season for certain licenses.

Senator Mitchem, Chairperson of the Standing Committee on Business and Labor Relations, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Mitchem:

S. 69. To provide that certain full-time employees and executive officers of the Alabama state special olympics, inc., may elect

to become members of the teachers' retirement system of Alabama; to provide that the entity and its employees shall assume all costs, both contributory and administrative, and no cost shall devolve upon the state, and to provide for purchase of certain previous service credit in such system retroactively.

By Senators Bailey and Parsons:

S. 191. To extensively revise the current Child Labor Laws relating to employment and the safety, health and welfare of persons 17 years of age and younger in the workplace; to update the state statutes to conform to the Federal Child Labor Standards Act, as revised; to repeal conflicting laws and specifically Sections 25-8-1 through 25-8-31, Code of Alabama 1975, as amending the current Child Labor Laws; and to retain certain misdemeanor criminal penalties for violations.

Senator Ghee, Chairperson of the Standing Committee on Constitution and Elections, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Windom:

S. 98. To amend Section 17-18-2 of the Code of Alabama 1975, to provide that during the 1991-1995 quadrennium, special elections shall be held on Saturdays.

By Senator Lindsey:

S. 119. Proposing an amendment to Sections 232, 233, 234, and 237 of the Constitution of Alabama of 1901, as amended, relating to corporations to authorize the Legislature to define the activities that do or do not constitute the doing of business in Alabama by foreign corporations, to permit domestic corporations to engage in certain business not expressly authorized by its charter, to remove certain restrictions on the issuance of stock and bonds by domestic corporations, and to permit domestic corporations to issue preferred stock as authorized by general law.

The above Bill was read a second time at length as required by the Constitution.

By Senator Little:

S. 125. To amend Section 17-22A-18 of the Code of Alabama

1975, the Fair Campaign Practices Act, to prohibit a political committee transferring any contribution to any other political committee.

By Senator Smith (J):

S. 200. To amend Sections 17-10-12 and 17-16-11 of the Code of Alabama 1975, relating to primary elections and absentee balloting, to shorten the time period for the delivery of absentee ballots, the filing of declarations of candidacy, and for the certification of candidates.

By Senator Little:

S. 226. To amend Section 16-48-8 of the Code of Alabama 1975, relating to the Board of Trustees of Auburn University, so as to provide further for a quorum of the Board of Trustees and to provide for an effective date.

Senator Preuit, Chairperson of the Standing on Rules reported that the following Bills have been placed on the Consent Calendar for today, to-wit:

By Senator Little (With Substitute):

S. 131. To amend Section 36-29-14, Code of Alabama 1975, which provides the procedure for officers, employees and retirees of certain cities, towns, fire districts, water and fire authority districts and the Alabama League of Municipalities to be covered under the state employees' health insurance plan, so as to include employees of regional planning and development commissions, and regional councils and area agencies on aging within the coverage.

By Senator Little (With Amendment):

S. 132. To create an Alabama Clearinghouse for State Publications within the Alabama Public Library Service and provide for its operations, duties and authority; to authorize the promulgation of reasonable rules and regulations; to provide for the creation of state publications depositories; and to repeal section 41-6-12, Code of Alabama 1975, which requires the printing of certain state publications.

MOTIONS IN WRITING

Senator Bennett offered the following Motion in Writing, to-wit:

I move that the Bill, SB 23, on page 9 of the 6th Day Calendar,

be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 23, referred to the Standing Committee on Rules for placement on the Consent Calendar.

Senator Windom offered the following Motion in Writing, to-wit:

MOTION IN WRITING

Notice having been given on a previous Legislative Day, motion is hereby made to amend the Senate Rules as follows:

Amend Rule 51 by adding a sub-section 51(c) which shall read as follows:

Subsection 51(b) shall not apply to any local bill reported favorably out of the Local Legislation III Committee prior to the adoption of subsection 51(b).

Which was read and referred to the Standing Committee on Rules.

Senator Windom then offered the following Motion in Writing, to-wit:

MOTION IN WRITING

Notice having been given on a previous Legislative Day, motion is hereby made to amend the Senate Rules as follows:

Amend Rule 51 by deleting sub-section 51(b).

Which was read and referred to the Standing Committee on Rules.

Senator Corbett offered the following Motions in Writing, to-wit:

I move that the Bill, SB 93, on page 3 of the 6th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Also:

I move that the Bill, SB 84, on page 5 of the 6th Day Calendar, be referred to the Standing Committee on Rules for placement on the

Consent Calendar.

Also:

I move that the Bill, SB 114, on page 5 of the 6th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which were adopted, and the President and Presiding Officer of the Senate ordered said Bills, SB's 93, 84, and 114, referred to the Standing Committee on Rules for placement on the Consent Calendar.

RESOLUTIONS

Senator Waggoner offered the following Senate Joint Resolution, to-wit:

SJR 15. MOURNING THE DEATH OF JOHN WAYNE CAMPBELL OF BESSEMER, ALABAMA.

WHEREAS, in consensus of deep sorrow and regret, the Legislature of Alabama records the death of John Wayne Campbell of Bessemer, Alabama, on January 21, 1992, at the age of just 43 years; and

WHEREAS, a native of Memphis, Tennessee, and a United States Marine Corps veteran, Mr. Campbell was a graduate of Mississippi State University where he earned a B.S. degree in business and his Master's degree in public administration in 1975 and 1981, respectively; and

WHEREAS, a former staff writer and advertising sales executive with the Daily Times Leader in West Point, Mississippi, Mr. Campbell also was formerly employed in West Point as city clerk and public works director from 1974-1980, and as West Point's chief administrative officer, 1980-1983; and

WHEREAS, Mr. Campbell, an Alabama resident since February 1983, was city manager for the City of Mountain Brook from that time until December 1986 and, at the time of his lamentable death, was serving as executive assistant to the mayor of the City of Hoover, the position he had held since January 1987; and

WHEREAS, outstanding in service to his professional field, Mr. Campbell was active with the International City Management, Government Finance Officers and the Alabama City Management Associations,

as well as the National League of Cities Executive Staff Group; he further was a past president of ACMA and the Mississippi City Clerks Association, board member of Mississippi Municipal Association, served in an advisory capacity and as an adjunct faculty member of the University of Alabama at Birmingham, and had served in numerous other capacities of professional leadership; and

WHEREAS, he also was a certified municipal clerk, recipient of the 1981 Outstanding Graduate Student in the MSU Department of Political Science, and had authored several articles for publication in professional journals; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are grievously saddened by the death of John Wayne Campbell of Bessemer, Alabama, and extend our deepest and most heartfelt sympathy to his wife and children, for whom a copy of this resolution of sincere condolence shall be provided.

On motion of Senator Waggoner, the Rules were suspended and the Resolution was adopted by the Senate.

Senator Little offered the following Senate Joint Resolution, to-wit:

SJR 16. COMMENDING FRANK SLAUGHTER OF TALLASSEE, ALABAMA, FOR OUTSTANDING COMMUNITY SERVICE.

WHEREAS, it is with great pleasure that the Alabama Senate congratulates Frank Slaughter of Tallassee, Alabama, as the recipient of the 1991 Frances H. Wagnon Award, a prestigious honor bestowed by the Tallassee Chamber of Commerce in recognition of distinguished service to the community; and

WHEREAS, Mr. Slaughter, whose contributions encompass numerous areas of community concern, was cited most particularly for his faithful volunteer service with the Community Hospital's Life Line Program, and the Retired Senior Volunteer Program (R.S.V.P.) as a member of the Advisory Council; and

WHEREAS, among other of many endeavors, Mr. Slaughter provides transportation services for Tallassee senior citizens, serves on the City Parks and Recreation Board, and supports the senior citizens program at the Tallassee Library Senior Center; and

WHEREAS, he also is an active Deacon of East Tallassee Baptist

Church, extending his church dedication of the past 40 years to include service to the Tuskegee Association, Alabama Baptist Association and the Southern Baptist Association; is treasurer of the William A. Warren Masonic Lodge in East Tallassee; and has both served at the election polls for many years and filled the position of Supervisor at the polls; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in consensus of commendation with the Tallassee Chamber of Commerce and the community, we hereby most highly commend Frank Slaughter for outstanding service to others, and direct that he receive a copy of this resolution of sincere warm praise and regard.

On motion of Senator Little, the Rules were suspended and the Resolution was adopted by the Senate.

Senators Little and Bennett offered the following Senate Joint Resolution, to-wit:

SJR 17. RATIFYING THE ORIGINAL PROPOSED SECOND AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES, DEFERRING CHANGES IN COMPENSATION TO MEMBERS OF THE UNITED STATES CONGRESS UNTIL AFTER THE NEXT ENSUING BIENNIAL ELECTION.

WHEREAS, the Legislature of the State of Alabama notes that the citizens of our great nation have long been attempting to pull in the reins of federal spending and have long desired the highest degree of integrity and accountability from elected officials; and

WHEREAS, on September 25, 1789, the 1st Congress of the United States convened in New York City and submitted to the Legislatures of the several states a proposed amendment to the United States Constitution designed to check the considerable power of the Congress to vary the compensation of its members; and

WHEREAS, the aforementioned amendment was presented for adoption by the outstanding constitutionalist, member of the 1st Congress, and later, fourth President of our nation, James Madison; and

WHEREAS, believing that fiscal irresponsibility at the federal level poses one of the greatest threats which face our Nation, we firmly believe that constitutional restraint is vital to bring the fiscal discipline and the accountability of elected officials which is necessary to restore

public confidence in the federal government; and

WHEREAS, this little known and scarcely advertised 202 year old proposal has received renewed attention, since it has been learned that it is still viable, and the Legislatures of the states of Delaware, Maryland, North Carolina, South Carolina, Vermont, and Virginia ratified it between the years 1789 and 1791; the General Assembly of the State of Ohio ratified it in 1873; the Legislature of the State of Wyoming ratified it in 1978; and the Legislatures of the states of Alaska, Arizona, Arkansas, Colorado, Connecticut, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Louisiana, Maine, Minnesota, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wisconsin ratified it from 1983 to present; and legislation to ratify it has received the approval of the Senate of the State of California, the House of Representatives of the State of Illinois, the Senate of the State of Michigan, and the House of Representatives of the State of Missouri; and

WHEREAS, among other appropriate avenues of pursuit, Article V of the United States Constitution also provides for that great and noble document to be amended by the adoption of a particular proposal by a vote of two-thirds (2/3) of the members present in the two chambers of the United States Congress, which must then be ratified by the Legislatures of three-fourths (3/4) of the several states, and that was and remains the case with the original proposed Second Amendment which this resolution would ratify on behalf of the State of Alabama; and

WHEREAS, in 1939, The United States Supreme Court ruled in the case of *Coleman v. Miller* that if Congress submits a proposed amendment to the state Legislatures without any deadline within which those Legislatures must act, then the proposal in question remains as pending business before those Legislatures and they may, at their discretion, continue to consider its merits; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the original proposed Second amendment to the United States Constitution stipulating a delay in variations in the compensation of members of the United States Congress which reads as follows: "Article the Second...No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened." be and the same hereby is ratified by the Legislature of the State of Alabama.

BE IT FURTHER RESOLVED, That properly inscribed copies of

this resolution be forwarded by the Secretary of the Alabama Senate to the Archivist of the United States in Washington, D. C., to the Vice-President of the United States as the presiding officer of the United States Senate, to the Speaker of the United States House of Representatives, and to both United States Senators and all United States Representatives from the State of Alabama with the request that it be reprinted in full in the Congressional Record.

On motion of Senator Little, the Rules were suspended and the Resolution was adopted by the Senate.

MOTION IN WRITING

Senator Windom offered the following Motion in Writing, to-wit:

I move that the Bill, SB 194, on page 26 of the 6th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 194, referred to the Standing Committee on Rules for placement on the Consent Calendar.

RESOLUTION

Senator Foshee offered the following Senate Joint Resolution, to-wit:

SJR 18. CREATING AN ENVIRONMENTAL LEGISLATIVE COMMITTEE.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby created the Environmental Legislative Committee. The committee shall be composed of eight (8) members, four (4) members of the Senate to be appointed by the President of the Senate and four (4) members of the House of Representatives to be appointed by the Speaker of the House of Representatives. Vacancies shall be filled in the same manner as the original appointment for the remainder of the term. The committee shall elect a chairman and vice-chairman at the first meeting of the committee and shall adopt all necessary rules of procedure.

Each member of the committee shall be entitled to regular legislative compensation, and per diem and travel expenses for each day he or she attends a meeting of the committee, which shall be paid out of

the funds appropriated to the use of the Legislature, on warrants drawn on the state comptroller upon requisition signed by the committee's chairman, provided, however, that members shall not receive additional compensation or per diem when the Legislature is in session. Clerical help shall be furnished by the Secretary of the Senate and the Clerk of the House.

The committee shall:

(1) Advise the Environmental Management Commission and the Department of Environmental Management on the development and implementation of environmental policy for the state, and review all policy decisions of the Environmental Management Commission and the Department of Environmental Management.

(2) Review the fiscal operations of the Department of Environmental Management; and

(3) Review other aspects of the department's operations to insure that the intent of the Legislature in creating said Department of Environmental Management is fulfilled and that the department's statutory purposes and mandates are lawfully satisfied.

The Environmental Legislative Committee shall have the power to and may:

(1) Advise the Department of Environmental Management regarding matters which are within the department's scope of authority; and

(2) Review and monitor the establishment, adoption, promulgation, modification, repeal and suspension of any rules, regulations, or environmental standards for the department, which may be applicable to the state as a whole or any of its geographical parts; and

(3) Review all proposed rules and regulations relating to the Department of Environmental Management which are submitted to the Legislative Council pursuant to the Alabama Administrative Procedures Act and issue recommendations on said proposed rules and regulations, which shall be given due consideration by the Legislative Council and the Legislature; and

(4) Recommend funding for the Department of Environmental Management to the House Ways and Means Committee and the Senate Finance and Taxation Committee, and said committees and the Legis-

lature shall give due consideration to said recommendations; and

(5) Request and receive technical assistance and data from appropriate state agencies, departments, entities and educational institutions, including the Department of Environmental Management; and

(6) Conduct public hearings and consult with groups and individuals, including public interest groups; and

(7) Review all bills originating in either house of the Legislature pertaining to the Department of Environmental Management and issue recommendations on said legislation, which recommendation shall be given due consideration by the Legislature; and

(8) Review the reports and records of the Department of Environmental Management necessary for the committee to perform its functions; and

(9) Distribute reports, findings and recommendations to the Legislature, the Governor and other persons.

The Legislature of Alabama hereby declares that the purpose of the creation of this committee is to protect legitimate and vital state interests.

On motion of Senator Foshee, the Rules were suspended and the Resolution was adopted by the Senate.

UNFINISHED BUSINESS BILLS ON THIRD READING

The Senate proceeded to consideration of the Unfinished Business for today, which was the Bill:

S. 80. To amend Sections 2-3-24, 2-19-130, 2-26-71, 2-27-6, 2-27-30, 9-8A-3 and 41-9-243, Code of Alabama 1975, relating to the membership of certain committees, organizations and commissions acting in connection with farmers and agriculture, so as to reflect the change in name of Alabama Farm Bureau Federation to Alabama Farmers Federation; and to ratify and confirm all actions taken under the authority of said sections of the Code of Alabama 1975 by Alabama Farmers Federation or its officers, as the successor to Alabama Farm Bureau Federation.

Senator Corbett offered the following substitute for the Bill, SB 80, to-wit:

SUBSTITUTE FOR SB 80

A BILL
TO BE ENTITLED
AN ACT

To amend Sections 2-3-24, 2-19-130, 2-26-71, 2-27-6, 2-27-30, 9-8A-3 and 41-9-243, Code of Alabama 1975, relating to the membership of certain committees, organizations and commissions acting in connection with farmers and agriculture, so as to reflect the change in name of Alabama Farm Bureau Federation to Alabama Farmers Federation; and to ratify and confirm all actions taken under the authority of said sections of the Code of Alabama 1975 by Alabama Farmers Federation or its officers, as the successor to Alabama Farm Bureau Federation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 2-3-24, Code of Alabama 1975, is hereby amended to read as follows:

"§2-3-24.

"To assist and advise the board of agriculture and industries in carrying out its responsibilities prescribed in this article, there is hereby created the state farmers' market committee, which shall consist of seven members as follows:

"(1) The commissioner of agriculture and industries, or at his discretion, a full-time employee of the state department of agriculture and industries.

"(2) The director of the Alabama Cooperative Extension Service, or at his discretion, a full-time employee of the Alabama Cooperative Extension Service.

"(3) The president of the Alabama ~~Farmers Farm-Bureau~~ Federation or at his discretion, a full-time employee of the federation.

"(4) One member to be appointed by the speaker of the house of representatives of the legislature of Alabama.

"(5) One member to be appointed by the lieutenant governor of the state of Alabama.

"(6) Two members to be appointed by the governor of Alabama. One member's primary occupation shall be the production of fresh fruits and vegetables and the other member's primary occupation shall be a wholesale or retail merchant of agricultural or agriculture related products.

"Terms of office of the respective members representing the commissioner of agriculture and industries, the Alabama Cooperative Extension Service and the Alabama Farmers Farm Bureau Federation shall be for the duration of the term of office of said commissioner of agriculture and industries, the director of the Cooperative Extension Service and the president of the Alabama Farmers Farm Bureau Federation. The first term of office of the members appointed by the lieutenant governor and the speaker of the house shall be for two years. The term of office of the two members appointed by the governor shall be for four years. Any successive appointments of those members appointed by the governor, lieutenant governor or the speaker of the house shall be for a period of four years.

"The commissioner of agriculture and industries or his appointed representative shall serve as secretary to the committee and shall also preside as chairman until such time as a chairman can be routinely elected. The committee shall meet as often as necessary on call of the chairman. Members shall receive mileage, per diem and subsistence as is provided by law for state boards, committees and commissions for attending meetings of the committee. Provided, however, that the committee shall meet at least quarterly and the first meeting of the committee shall be within 30 days from the appointment of the committee members."

Section 2. Section 2-19-130, Code of Alabama 1975, is hereby amended to read as follows:

"§2-19-130.

"(a) The board may certify a cotton growers' organization for the purpose of entering into agreements with the state of Alabama, other states, the federal government and other parties as may be necessary to carry out the purposes of this article.

"(b) In order to be eligible for certification by the board, the cotton growers' organization must demonstrate to the satisfaction of the board that:

"(1) It is a nonprofit organization and could qualify as a

tax-exempt organization under section 501(a) of the Internal Revenue Code of 1954 (26 U.S.C. 501(a));

"(2) Membership in the organization shall be open to all cotton growers in this state;

"(3) The organization shall have only one class of members with each member entitled to only one vote;

"(c) The organization's board of directors shall be composed as follows:

"(1) One Alabama cotton grower recommended by the Alabama cotton commission, to be appointed by the commissioner with the consent of the board;

"(2) One Alabama cotton grower recommended by the Alabama Farmers ~~farm-bureau~~ Federation, to be appointed by the commissioner, with the consent of the board;

"(3) Two Alabama cotton growers to be appointed by the commissioner, with the consent of the board; and

"(4) One representative of state government from this state to be appointed by the commissioner with the consent of the board.

"(d) All books and records of account and minutes of proceedings of the organization shall be available for inspection or audit by the commissioner at any reasonable time; and

"(e) Employees or agents of the growers' organization who handle funds of the organization shall be adequately bonded in an amount to be determined by the commissioner."

Section 3. Section 2-26-71, Code of Alabama 1975, is hereby amended to read as follows:

"§2-26-71.

"There is hereby created and established a seed investigation and arbitration committee to be appointed by the commissioner of agriculture and industries to consist of five members. The members shall be appointed by the commissioner of agriculture and industries upon the recommendation of each of the following: dean and director, school of agriculture and agricultural experiment station of Auburn University;

executive committee of the Alabama Seedsmen's Association; president of the Alabama Farmers Farm-Bureau Federation; state board of agriculture and industries, and one member shall be appointed by the commissioner of agriculture and industries. Each of these members may be represented by an alternate appointed by the commissioner of agriculture and industries, upon the recommendation of the recommending authority or on recommendation of the committee member when such authority has been vested in the committee member by the recommending authority. Each member shall continue to serve on the committee until a replacement has been recommended by one of the above named organizations, agencies or officials authorized to make such recommendations or appointments, at which time the commissioner of agriculture and industries shall appoint a new member from those recommended. Each alternate shall serve only for the case in which he has been appointed and only one member shall represent each of the above organizations, agencies or officials authorized to make recommendations for appointment to the committee. The committee shall elect a chairman and a secretary from its membership. The committee chairman shall conduct all meetings and deliberations held by the committee and direct the other activities of the committee. The secretary shall keep accurate and correct records on all meetings and deliberations and perform any other duties for the committee as directed by the chairman. The committee shall be known as the seed investigation and arbitration committee."

Section 4. Section 2-27-6, Code of Alabama 1975, is hereby amended to read as follows:

"§2-27-6.

"(a) Creation. -- A pesticide advisory committee is hereby created and established to consist of 13 members to be appointed from and by certain agencies, departments, institutions and organizations as provided in this section. The pesticide advisory committee's membership, their term of service, method of appointment, authority, duties and functions shall be as follows:

"(1) Two members from the school of agriculture and the agricultural experiment station of Auburn University, to be appointed by its dean and director;

"(2) Two members from the cooperative agricultural extension service of Auburn University, to be appointed by its director;

"(3) Two members in the employ of the state department of

agriculture and industries, to be appointed by its commissioner;

"(4) Two members in the employ of the state department of public health, to be appointed by the state health officer;

"(5) Two members in the employ of the state department of conservation, to be appointed by its director;

"(6) Two members from the Alabama pesticide institute, to be appointed by its board of directors; and

"(7) One member appointed by the commissioner of agriculture and industries from a list of five nominees submitted by the Alabama ~~Farmers farm-bureau~~ Federation who are primarily and actively engaged in farming.

"The term of service of the members of said committee shall be at the pleasure of the appointing authority. The chairman and secretary of the pesticide advisory committee shall be elected annually from and by the committee members, and each shall serve until their successors are elected.

"(b) Meetings. -- The pesticide advisory committee shall meet at the call of its chairman or upon call of a majority of its members. There shall be at least two regular meetings of the committee during each calendar year to be held not less than five months apart, and call meetings may be held as the duties and business of the committee may require. In the absence of the chairman, the committee shall elect a temporary chairman.

"(c) Official action. -- Official action of the pesticide advisory committee requires a majority vote of the members of the committee present and voting. Seven members of the committee shall constitute a quorum, which is the number necessary to transact official business of the committee.

"(d) Powers and duties. -- The pesticide advisory committee, with respect to its field of work, shall have the powers and duties:

"(1) To consider and study the entire field of pesticides;

"(2) To review and make recommendations to the commissioner on any pesticide registration submitted to it by the commissioner;

"(3) To advise, counsel and consult with the commissioner upon

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his request in connection with the promulgation, administration and enforcement of all laws, rules and regulations relating to pesticides;

"(4) To consider all matters submitted to it by the commissioner, other members of the committee or any person affected by the provisions and to offer suggestions and make recommendations to the commissioner on its own initiative in regard to changes in the laws, rules and regulations relating to pesticides, as may be deemed advisable for the effective administration and enforcement of said laws and rules and regulations;

"(5) To suggest or recommend, on its own initiative, policies or practices for the administration and enforcement of this article, which suggestions and recommendations the commissioner shall duly consider; and

"(6) To review registered pesticides as to their safety and/or efficacy and make recommendations to the commissioner as to its findings and to make recommendations as to which pesticides should be prohibited or restricted in use. The commissioner shall duly consider these recommendations as to the registration cancellation and as to restricted-use pesticides, the decision so arrived at shall not be final until approved by the state board of agriculture and industries.

"(e) Records of meetings. -- In conducting its meetings, the pesticide advisory committee shall use accepted rules of procedures, and the secretary shall keep a complete record of the proceedings of each meeting of the committee, which proceedings shall show the names of the members present at each meeting and the actions taken at committee meetings. Such record of proceedings of the committee shall be kept on file with the secretary and in the office of the commissioner, which shall be open for public inspection."

Section 5. Section 2-27-30, Code of Alabama 1975, is hereby amended to read as follows:

"§2-27-30.

"The commissioner and state department of agriculture and industries shall have authority to provide for the establishment and operation of a laboratory to obtain reliable analysis of raw and processed agricultural products, the materials used in production of agricultural products for harmful pesticide residues for the protection of public health and interest, to aid in developing and expanding markets for agricultural products, the protection and production of fish and wildlife and the use

of recreational areas as related to pesticide residues. In connection therewith, there shall be established a policy committee to be composed of the following:

"(1) The director, Alabama cooperative extension service, who shall be chairman of the committee;

"(2) The commissioner of the department of agriculture and industries;

"(3) The director, Alabama experiment station system;

"(4) The state health officer;

"(5) The commissioner of the department of conservation and natural resources;

"(6) The president, or a representative named by him, of the following organizations or associations:

"a. Alabama Farmers ~~farm-bureau~~ Federation;

"b. Alabama dairy products association;

"c. Alabama feed dealers association;

"d. Alabama poultry industry association;

"e. Alabama fisheries association;

"f. Alabama cattlemen's association;

"g. Alabama pesticide institute; and

"h. A representative of the Alabama Farmers ~~farm-bureau~~ Federation dairy committee and one person engaged in the production and/or marketing of fruits and vegetables, to be appointed by the commissioner of agriculture and industries.

"The advisory committee may select from among their number an executive committee, who shall have and exercise such authority as the advisory committee may determine. The members of the advisory committee and executive committee shall not be entitled to any remuneration whatever for the performance of their functions. Members of such committee may be represented at meetings by their proxies."

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Section 6. Section 9-8A-3, Code of Alabama 1975, is hereby amended to read as follows:

"§9-8A-3.

"(a) The members of the commission shall consist of the governor; the commissioner of agriculture and industries; the president of the Alabama ~~Farmers Farm-Bureau~~ Federation; the president of the Alabama Cattlemen's Association; the chairman of the state soil and water conservation committee; a member of the Alabama forestry commission designated by the governor; a member of the Alabama agricultural stabilization and conservation committee designated by the governor; the president of the Alabama Association of Conservation Districts; and two citizens of the state of good reputation who are active farmers or timberland owners or involved in environmental protection appointed by the governor. The chairman of the senate agriculture, conservation and forestry committee, the chairman of the house agriculture and forestry committee and two members of the house and two members of the senate appointed by the speaker of the house and the lieutenant governor, respectively, shall also serve as nonvoting ex officio members of the commission and as an oversight committee to review and report to the legislature respecting the programs and activities of the commission. The members of the commission appointed by the governor shall be appointed at the beginning of each organizational session of the legislature to serve until the next organizational session of the legislature; provided, however, that the initial appointed members will be appointed promptly following ratification by the qualified electors of the state of the amendment to the Constitution of Alabama 1901 that was proposed by House Bill 10 introduced at that Special Session of the legislature that convened on January 23, 1985. Each member shall hold office for the term of his appointment, if he is appointed, or as long as he serves in one of the positions listed above, and until his successor shall have been appointed and qualified.

"(b) The governor shall serve as chairman of the commission and the commission shall elect from among its members a vice-chairman, a secretary and such other officers as it may determine. The governor may designate, in a writing delivered to the commission, a citizen of the state of good reputation to serve as the governor's representative on the commission who shall be entitled to vote and participate in the activities of the commission in the absence of the governor, to serve at the governor's pleasure and concurrently with the incumbency in office of the governor. The state treasurer of Alabama shall serve as treasurer of the commission.

"(c) If at any time there shall be a vacancy among the appointed

members of the commission, a successor member shall be appointed to serve for the unexpired term applicable to such vacancy. The appointment of each appointed member of the commission (other than those initially appointed), whether for a full term or to complete an unexpired term, shall be made by the same officer of the state who appointed the member of the commission whose term shall have expired or is to expire or in whose position on the commission the vacancy otherwise exists and shall be made not earlier than 30 days prior to the date on which such member of the commission is to take office as such. Each appointed member of the commission shall hold office from the effective date of his or her appointment until the expiration of the term (or portion thereof) for which he or she was appointed; provided that if the term of any member of the commission shall expire prior to the reappointment of such member of the commission or prior to the appointment of his or her successor, such member of the commission shall continue to serve until his or her successor is appointed, and if such member of the commission is reappointed for a new term after the expiration of the immediately preceding term which he or she has been serving, his or her new term of office shall be deemed to have commenced at noon on the date on which the immediately preceding term shall have expired. Members of the commission shall be eligible for reappointment without limit as to the number of terms previously served.

"(d) Each member of the commission shall, at the time of his or her appointment or otherwise becoming a member and at all times during his or her term of office, be a qualified elector of the state, and a failure by any member of the commission to remain so qualified during such term shall cause a vacancy of the office of such member of the commission. Any member of the commission may be impeached and removed from office as a member of the commission in the same manner and on the same grounds provided in Section 173 of the Constitution of Alabama of 1901, or successor provision thereof, and the general laws of the state for impeachment and removal of the officers of the state subject to said section 173 or successor provision thereof. The governor and the commissioner of agriculture and industries may not be impeached and removed from office as members of the commission apart from their impeachment and removal from the respective offices by virtue of which, ex officio, they serve as members of the commission.

"(e) Regular meetings of the commission shall be held at such time and place as shall be fixed by resolution or by law of the commission and special meetings of the commission shall be held at the call of the chairman or whenever three members of the commission so request, in each case upon two days' notice to each member of the

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commission given in person or by registered letter or telegram; provided, however, that such notice to each member of the commission may be waived by such member of the commission, either before or after the meeting with respect to which such notice would otherwise be required. A majority of the voting members of the commission shall constitute a quorum for the transaction of business by the commission, and decisions shall be made and resolutions adopted on the basis of a majority of the quorum then present and voting, with each member of the commission to have a single vote. No vacancy in the membership of the commission or the voluntary disqualification or abstention of any member of the commission shall impair the right of a quorum to exercise all of the powers and duties of the commission. No member or officer of the commission shall receive any salary therefor, but he may be reimbursed for necessary travel and the reasonable expenses of performing the duties of office. All proceedings had and done by the commission shall be reduced to writing by the secretary of the commission, shall be signed by the chairman and at least three members of the commission and shall be recorded in a substantially bound book and filed in the office of the commission. All proceedings of the commission shall be open to the public, except that executive or secret sessions may be held by the commission when the character or good name of a person is involved, and all records of the commission shall be subject to public inspection during business hours. Copies of such proceedings, when certified by the secretary of the commission under the seal of the commission, shall be received in all courts as prima facie evidence of the matters and things therein certified.

"(f) No member, officer, or employee of the commission shall be personally liable for the obligations or acts of the commission."

Section 7. Section 41-9-243, Code of Alabama 1975, is hereby amended to read as follows:

"§41-9-243.

"The commission shall consist of 20 members, one of whom shall be the governor, one of whom shall be the lieutenant governor, one of whom shall be the speaker of the house of representatives, one of whom shall be the director of the department of archives and history, one of whom shall be the director of the state bureau of tourism and travel, one of whom shall be the commissioner of conservation and natural resources, one of whom shall be the director of the technical staff of the Alabama building commission and 13 other persons to be appointed by the governor, one of whom shall be selected from a list of three nominees submitted by the Alabama council of the American institute of

architects, one from a list of three nominees submitted by the Alabama historical association, one from a list of three nominees submitted by the Alabama state chamber of commerce, one from a list of three nominees submitted by the Alabama Farmers farm-bureau Federation, one from a list of three nominees submitted by the president of the University of Alabama, one from a list of three nominees submitted by the president of Auburn University, one from a list of three nominees submitted by the president of the University of South Alabama, one from a list of three nominees submitted by the president of Troy State University, one from a list of three nominees submitted by the president of the University of Montevallo, one from a list of three qualified archaeologists nominated by the Alabama archaeological society and three from the state-at-large.

"Said nominees and appointees shall be persons who have demonstrated interest in and concern about the preservation of his state's rich history and traditions and who are conversant with the history of the state and who are qualified to direct and supervise the work of the commission.

"The members appointed by the governor shall serve for terms of six years each; except, that the terms of the members of the first commission shall be three years for one half of the members appointed by the governor and six years for the remaining members. After the expiration of the term of the initial members, all members appointed by the governor shall be appointed for terms of six years each.

"Any member of the commission may be removed by the governor for cause, and vacancies in the commission shall be filled by the governor by the appointment of a competent and qualified person for the unexpired term, from a list of three nominees submitted to him by the organization which originally nominated the member being replaced.

"The chairman of the restructured historic Chattahoochee commission shall serve as an ex officio policy making member of the commission."

Section 8. All actions taken by Alabama Farmers Federation or its officers in conjunction with or pursuant to the authorization to Alabama Farm Bureau Federation contained in Sections 2-3-24, 2-19-130, 2-26-71, 2-27-6, 2-27-30, 9-8A-3 and 41-9-243, Code of Alabama 1975, since the time of the change of name of said organization from Alabama Farm Bureau to Alabama Farmers Federation, are hereby ratified and confirmed.

Section 9. This act shall become effective on January 1, 1994

if approved by the Governor, or upon its otherwise becoming a law.

Senator Corbett then offered the following substitute No. 2 for the Corbett substitute for the Bill, SB 80, to-wit:

SUBSTITUTE NO. 2 FOR CORBETT SUBSTITUTE FOR SB 80

**A BILL
TO BE ENTITLED
AN ACT**

To amend Sections 2-3-24, 2-19-130, 2-26-71, 2-27-6, 2-27-30, 9-8A-3 and 41-9-243, Code of Alabama 1975, relating to the membership of certain committees, organizations and commissions acting in connection with farmers and agriculture, so as to reflect the change in name of Alabama Farm Bureau Federation to Alabama Farmers Federation; and to ratify and confirm all actions taken under the authority of said sections of the Code of Alabama 1975 by Alabama Farmers Federation or its officers, as the successor to Alabama Farm Bureau Federation.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 2-3-24, Code of Alabama 1975, is hereby amended to read as follows:

"§2-3-24.

"To assist and advise the board of agriculture and industries in carrying out its responsibilities prescribed in this article, there is hereby created the state farmers' market committee, which shall consist of seven members as follows:

"(1) The commissioner of agriculture and industries, or at his discretion, a full-time employee of the state department of agriculture and industries.

"(2) The director of the Alabama Cooperative Extension Service, or at his discretion, a full-time employee of the Alabama Cooperative Extension Service.

"(3) The president of the Alabama ~~Farmers Farm-Bureau~~ Federation or at his discretion, a full-time employee of the federation.

"(4) One member to be appointed by the speaker of the house of

representatives of the legislature of Alabama.

"(5) One member to be appointed by the lieutenant governor of the state of Alabama.

"(6) Two members to be appointed by the governor of Alabama. One member's primary occupation shall be the production of fresh fruits and vegetables and the other member's primary occupation shall be a wholesale or retail merchant of agricultural or agriculture related products.

"Terms of office of the respective members representing the commissioner of agriculture and industries, the Alabama Cooperative Extension Service and the Alabama Farmers Farm Bureau Federation shall be for the duration of the term of office of said commissioner of agriculture and industries, the director of the Cooperative Extension Service and the president of the Alabama Farmers Farm Bureau Federation. The first term of office of the members appointed by the lieutenant governor and the speaker of the house shall be for two years. The term of office of the two members appointed by the governor shall be for four years. Any successive appointments of those members appointed by the governor, lieutenant governor or the speaker of the house shall be for a period of four years.

"The commissioner of agriculture and industries or his appointed representative shall serve as secretary to the committee and shall also preside as chairman until such time as a chairman can be routinely elected. The committee shall meet as often as necessary on call of the chairman. Members shall receive mileage, per diem and subsistence as is provided by law for state boards, committees and commissions for attending meetings of the committee. Provided, however, that the committee shall meet at least quarterly and the first meeting of the committee shall be within 30 days from the appointment of the committee members."

Section 2. Section 2-19-130, Code of Alabama 1975, is hereby amended to read as follows:

"§2-19-130.

"(a) The board may certify a cotton growers' organization for the purpose of entering into agreements with the state of Alabama, other states, the federal government and other parties as may be necessary to carry out the purposes of this article.

"(b) In order to be eligible for certification by the board, the

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cotton growers' organization must demonstrate to the satisfaction of the board that:

"(1) It is a nonprofit organization and could qualify as a tax-exempt organization under section 501(a) of the Internal Revenue Code of 1954 (26 U.S.C. 501(a));

"(2) Membership in the organization shall be open to all cotton growers in this state;

"(3) The organization shall have only one class of members with each member entitled to only one vote;

"(c) The organization's board of directors shall be composed as follows:

"(1) One Alabama cotton grower recommended by the Alabama cotton commission, to be appointed by the commissioner with the consent of the board;

"(2) One Alabama cotton grower recommended by the Alabama Farmers farm-bureau Federation, to be appointed by the commissioner, with the consent of the board;

"(3) Two Alabama cotton growers to be appointed by the commissioner, with the consent of the board; and

"(4) One representative of state government from this state to be appointed by the commissioner with the consent of the board.

"(d) All books and records of account and minutes of proceedings of the organization shall be available for inspection or audit by the commissioner at any reasonable time; and

"(e) Employees or agents of the growers' organization who handle funds of the organization shall be adequately bonded in an amount to be determined by the commissioner."

Section 3. Section 2-26-71, Code of Alabama 1975, is hereby amended to read as follows:

"§2-26-71.

"There is hereby created and established a seed investigation and arbitration committee to be appointed by the commissioner of agriculture

and industries to consist of five members. The members shall be appointed by the commissioner of agriculture and industries upon the recommendation of each of the following: dean and director, school of agriculture and agricultural experiment station of Auburn University; executive committee of the Alabama Seedsmen's Association; president of the Alabama ~~Farmers Farm—Bureau~~ Federation; state board of agriculture and industries, and one member shall be appointed by the commissioner of agriculture and industries. Each of these members may be represented by an alternate appointed by the commissioner of agriculture and industries, upon the recommendation of the recommending authority or on recommendation of the committee member when such authority has been vested in the committee member by the recommending authority. Each member shall continue to serve on the committee until a replacement has been recommended by one of the above named organizations, agencies or officials authorized to make such recommendations or appointments, at which time the commissioner of agriculture and industries shall appoint a new member from those recommended. Each alternate shall serve only for the case in which he has been appointed and only one member shall represent each of the above organizations, agencies or officials authorized to make recommendations for appointment to the committee. The committee shall elect a chairman and a secretary from its membership. The committee chairman shall conduct all meetings and deliberations held by the committee and direct the other activities of the committee. The secretary shall keep accurate and correct records on all meetings and deliberations and perform any other duties for the committee as directed by the chairman. The committee shall be known as the seed investigation and arbitration committee."

Section 4. Section 2-27-6, Code of Alabama 1975, is hereby amended to read as follows:

"§2-27-6.

"(a) Creation. -- A pesticide advisory committee is hereby created and established to consist of 13 members to be appointed from and by certain agencies, departments, institutions and organizations as provided in this section. The pesticide advisory committee's membership, their term of service, method of appointment, authority, duties and functions shall be as follows:

"(1) Two members from the school of agriculture and the agricultural experiment station of Auburn University, to be appointed by its dean and director;

"(2) Two members from the cooperative agricultural extension

service of Auburn University, to be appointed by its director;

"(3) Two members in the employ of the state department of agriculture and industries, to be appointed by its commissioner;

"(4) Two members in the employ of the state department of public health, to be appointed by the state health officer;

"(5) Two members in the employ of the state department of conservation, to be appointed by its director;

"(6) Two members from the Alabama pesticide institute, to be appointed by its board of directors; and

"(7) One member appointed by the commissioner of agriculture and industries from a list of five nominees submitted by the Alabama Farmers farm bureau Federation who are primarily and actively engaged in farming.

"The term of service of the members of said committee shall be at the pleasure of the appointing authority. The chairman and secretary of the pesticide advisory committee shall be elected annually from and by the committee members, and each shall serve until their successors are elected.

"(b) Meetings. -- The pesticide advisory committee shall meet at the call of its chairman or upon call of a majority of its members. There shall be at least two regular meetings of the committee during each calendar year to be held not less than five months apart, and call meetings may be held as the duties and business of the committee may require. In the absence of the chairman, the committee shall elect a temporary chairman.

"(c) Official action. -- Official action of the pesticide advisory committee requires a majority vote of the members of the committee present and voting. Seven members of the committee shall constitute a quorum, which is the number necessary to transact official business of the committee.

"(d) Powers and duties. -- The pesticide advisory committee, with respect to its field of work, shall have the powers and duties:

"(1) To consider and study the entire field of pesticides;

"(2) To review and make recommendations to the commissioner

on any pesticide registration submitted to it by the commissioner;

"(3) To advise, counsel and consult with the commissioner upon his request in connection with the promulgation, administration and enforcement of all laws, rules and regulations relating to pesticides;

"(4) To consider all matters submitted to it by the commissioner, other members of the committee or any person affected by the provisions and to offer suggestions and make recommendations to the commissioner on its own initiative in regard to changes in the laws, rules and regulations relating to pesticides, as may be deemed advisable for the effective administration and enforcement of said laws and rules and regulations;

"(5) To suggest or recommend, on its own initiative, policies or practices for the administration and enforcement of this article, which suggestions and recommendations the commissioner shall duly consider; and

"(6) To review registered pesticides as to their safety and/or efficacy and make recommendations to the commissioner as to its findings and to make recommendations as to which pesticides should be prohibited or restricted in use. The commissioner shall duly consider these recommendations as to the registration cancellation and as to restricted-use pesticides, the decision so arrived at shall not be final until approved by the state board of agriculture and industries.

"(e) Records of meetings. -- In conducting its meetings, the pesticide advisory committee shall use accepted rules of procedures, and the secretary shall keep a complete record of the proceedings of each meeting of the committee, which proceedings shall show the names of the members present at each meeting and the actions taken at committee meetings. Such record of proceedings of the committee shall be kept on file with the secretary and in the office of the commissioner, which shall be open for public inspection."

Section 5. Section 2-27-30, Code of Alabama 1975, is hereby amended to read as follows:

"§2-27-30.

"The commissioner and state department of agriculture and industries shall have authority to provide for the establishment and operation of a laboratory to obtain reliable analysis of raw and processed agricultural products, the materials used in production of agricultural

products for harmful pesticide residues for the protection of public health and interest, to aid in developing and expanding markets for agricultural products, the protection and production of fish and wildlife and the use of recreational areas as related to pesticide residues. In connection therewith, there shall be established a policy committee to be composed of the following:

"(1) The director, Alabama cooperative extension service, who shall be chairman of the committee;

"(2) The commissioner of the department of agriculture and industries;

"(3) The director, Alabama experiment station system;

"(4) The state health officer;

"(5) The commissioner of the department of conservation and natural resources;

"(6) The president, or a representative named by him, of the following organizations or associations:

"a. Alabama Farmers ~~farm-bureau~~ Federation;

"b. Alabama dairy products association;

"c. Alabama feed dealers association;

"d. Alabama poultry industry association;

"e. Alabama fisheries association;

"f. Alabama cattlemen's association;

"g. Alabama pesticide institute; and

"h. A representative of the Alabama Farmers ~~farm-bureau~~ Federation dairy committee and one person engaged in the production and/or marketing of fruits and vegetables, to be appointed by the commissioner of agriculture and industries.

"The advisory committee may select from among their number an executive committee, who shall have and exercise such authority as the advisory committee may determine. The members of the advisory com-

mittee and executive committee shall not be entitled to any remuneration whatever for the performance of their functions. Members of such committee may be represented at meetings by their proxies."

Section 6. Section 9-8A-3, Code of Alabama 1975, is hereby amended to read as follows:

"§9-8A-3.

"(a) The members of the commission shall consist of the governor; the commissioner of agriculture and industries; the president of the Alabama Farmers Farm Bureau Federation; the president of the Alabama Cattlemen's Association; the chairman of the state soil and water conservation committee; a member of the Alabama forestry commission designated by the governor; a member of the Alabama agricultural stabilization and conservation committee designated by the governor; the president of the Alabama Association of Conservation Districts; and two citizens of the state of good reputation who are active farmers or timberland owners or involved in environmental protection appointed by the governor. The chairman of the senate agriculture, conservation and forestry committee, the chairman of the house agriculture and forestry committee and two members of the house and two members of the senate appointed by the speaker of the house and the lieutenant governor, respectively, shall also serve as nonvoting ex officio members of the commission and as an oversight committee to review and report to the legislature respecting the programs and activities of the commission. The members of the commission appointed by the governor shall be appointed at the beginning of each organizational session of the legislature to serve until the next organizational session of the legislature; provided, however, that the initial appointed members will be appointed promptly following ratification by the qualified electors of the state of the amendment to the Constitution of Alabama 1901 that was proposed by House Bill 10 introduced at that Special Session of the legislature that convened on January 23, 1985. Each member shall hold office for the term of his appointment, if he is appointed, or as long as he serves in one of the positions listed above, and until his successor shall have been appointed and qualified.

"(b) The governor shall serve as chairman of the commission and the commission shall elect from among its members a vice-chairman, a secretary and such other officers as it may determine. The governor may designate, in a writing delivered to the commission, a citizen of the state of good reputation to serve as the governor's representative on the commission who shall be entitled to vote and participate in the activities of the commission in the absence of the governor, to serve at the

governor's pleasure and concurrently with the incumbency in office of the governor. The state treasurer of Alabama shall serve as treasurer of the commission.

"(c) If at any time there shall be a vacancy among the appointed members of the commission, a successor member shall be appointed to serve for the unexpired term applicable to such vacancy. The appointment of each appointed member of the commission (other than those initially appointed), whether for a full term or to complete an unexpired term, shall be made by the same officer of the state who appointed the member of the commission whose term shall have expired or is to expire or in whose position on the commission the vacancy otherwise exists and shall be made not earlier than 30 days prior to the date on which such member of the commission is to take office as such. Each appointed member of the commission shall hold office from the effective date of his or her appointment until the expiration of the term (or portion thereof) for which he or she was appointed; provided that if the term of any member of the commission shall expire prior to the reappointment of such member of the commission or prior to the appointment of his or her successor, such member of the commission shall continue to serve until his or her successor is appointed, and if such member of the commission is reappointed for a new term after the expiration of the immediately preceding term which he or she has been serving, his or her new term of office shall be deemed to have commenced at noon on the date on which the immediately preceding term shall have expired. Members of the commission shall be eligible for reappointment without limit as to the number of terms previously served.

"(d) Each member of the commission shall, at the time of his or her appointment or otherwise becoming a member and at all times during his or her term of office, be a qualified elector of the state, and a failure by any member of the commission to remain so qualified during such term shall cause a vacancy of the office of such member of the commission. Any member of the commission may be impeached and removed from office as a member of the commission in the same manner and on the same grounds provided in Section 173 of the Constitution of Alabama of 1901, or successor provision thereof, and the general laws of the state for impeachment and removal of the officers of the state subject to said section 173 or successor provision thereof. The governor and the commissioner of agriculture and industries may not be impeached and removed from office as members of the commission apart from their impeachment and removal from the respective offices by virtue of which, ex officio, they serve as members of the commission.

"(e) Regular meetings of the commission shall be held at such

time and place as shall be fixed by resolution or by law of the commission and special meetings of the commission shall be held at the call of the chairman or whenever three members of the commission so request, in each case upon two days' notice to each member of the commission given in person or by registered letter or telegram; provided, however, that such notice to each member of the commission may be waived by such member of the commission, either before or after the meeting with respect to which such notice would otherwise be required. A majority of the voting members of the commission shall constitute a quorum for the transaction of business by the commission, and decisions shall be made and resolutions adopted on the basis of a majority of the quorum then present and voting, with each member of the commission to have a single vote. No vacancy in the membership of the commission or the voluntary disqualification or abstention of any member of the commission shall impair the right of a quorum to exercise all of the powers and duties of the commission. No member or officer of the commission shall receive any salary therefor, but he may be reimbursed for necessary travel and the reasonable expenses of performing the duties of office. All proceedings had and done by the commission shall be reduced to writing by the secretary of the commission, shall be signed by the chairman and at least three members of the commission and shall be recorded in a substantially bound book and filed in the office of the commission. All proceedings of the commission shall be open to the public, except that executive or secret sessions may be held by the commission when the character or good name of a person is involved, and all records of the commission shall be subject to public inspection during business hours. Copies of such proceedings, when certified by the secretary of the commission under the seal of the commission, shall be received in all courts as prima facie evidence of the matters and things therein certified.

"(f) No member, office, or employee of the commission shall be personally liable for the obligations or acts of the commission."

Section 7. Section 41-9-243, Code of Alabama 1975, is hereby amended to read as follows:

"§41-9-243.

"The commission shall consist of 20 members, one of whom shall be the governor, one of whom shall be the lieutenant governor, one of whom shall be the speaker of the house of representatives, one of whom shall be the director of the department of archives and history, one of whom shall be the director of the state bureau of tourism and travel, one of whom shall be the commissioner of conservation and natural resources, one of whom shall be the director of the technical staff of the

Alabama building commission and 13 other persons to be appointed by the governor, one of whom shall be selected from a list of three nominees submitted by the Alabama council of the American institute of architects, one from a list of three nominees submitted by the Alabama historical association, one from a list of three nominees submitted by the Alabama state chamber of commerce, one from a list of three nominees submitted by the Alabama ~~Farmers farm-bureau~~ Federation, one from a list of three nominees submitted by the president of the University of Alabama, one from a list of three nominees submitted by the president of Auburn University, one from a list of three nominees submitted by the president of the University of South Alabama, one from a list of three nominees submitted by the president of Troy State University, one from a list of three nominees submitted by the president of the University of Montevallo, one from a list of three qualified archaeologists nominated by the Alabama archaeological society and three from the state-at-large.

"Said nominees and appointees shall be persons who have demonstrated interest in and concern about the preservation of his state's rich history and traditions and who are conversant with the history of the state and who are qualified to direct and supervise the work of the commission.

"The members appointed by the governor shall serve for terms of six years each; except, that the terms of the members of the first commission shall be three years for one half of the members appointed by the governor and six years for the remaining members. After the expiration of the term of the initial members, all members appointed by the governor shall be appointed for terms of six years each.

"Any member of the commission may be removed by the governor for cause, and vacancies in the commission shall be filled by the governor by the appointment of a competent and qualified person for the unexpired term, from a list of three nominees submitted to him by the organization which originally nominated the member being replaced.

"The chairman of the restructured historic Chattahoochee commission shall serve as an ex officio policy making member of the commission."

Section 8. All actions taken by Alabama Farmers Federation or its officers in conjunction with or pursuant to the authorization to Alabama Farm Bureau Federation contained in Sections 2-3-24, 2-19-130, 2-26-71, 2-27-6, 2-27-30, 9-8A-3 and 41-9-243, Code of Alabama 1975, since the time of the change of name of said organization from Alabama Farm Bureau to Alabama Farmers Federation, are hereby

ratified and confirmed.

Section 9. This act shall become effective on January 1, 1999 if approved by the Governor, or upon its otherwise becoming a law.

ADJOURNMENT

At 3:55 P.M., on motion of Senator Bedsole, pending further consideration of the Bill, SB 80, the Senate adjourned until Thursday, February 20, 1992, at 11 o'clock A.M.

SEVENTH LEGISLATIVE DAY
THURSDAY, FEBRUARY 20, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by Dr. D. L. "Dan" Ireland, Green Valley Baptist Church, Birmingham, Alabama.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Katherine Bissell, Trinity Presbyterian School, Montgomery, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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**REPORT OF COMMITTEE
ON RULES ON
REVISION OF THE JOURNAL**

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Sixth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

RECESS

At 11:35 A.M., on motion of Senator Corbett, the Senate took a recess until 12:05 P.M.

At 12:05 P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 19. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bill shall be the paramount and continuing order of business taking precedence over all other matters for the seventh legislative day of the 1992 Regular Session only:

	Page
S. 73	13
United States congressional dists., redistricted, Sec. 17-20-1 am'd.	

On motion of Senator Preuitt the Resolution was adopted by the Senate.

**UNFINISHED BUSINESS
BILLS ON THIRD READING**

The Senate proceeded to consideration of the Unfinished Business for today, which was the Bill:

S. 80. To amend Sections 2-3-24, 2-19-130, 2-26-71, 2-27-6, 2-27-30, 9-8A-3 and 41-9-243, Code of Alabama 1975, relating to the membership of certain committees, organizations and commissions acting in connection with farmers and agriculture, so as to reflect the change in name of Alabama Farm Bureau Federation to Alabama Farmers Fed-

eration; and to ratify and confirm all actions taken under the authority of said sections of the Code of Alabama 1975 by Alabama Farmers Federation or its officers, as the successor to Alabama Farm Bureau Federation.

and pending Corbett substitute No. 2 for the Corbett substitute, which said substitutes are set out in the Journal of the Senate for the Sixth Legislative Day.

On motion of Senator Corbett the Rules were suspended and further consideration of the Bill, SB 80, and pending substitutes, was postponed.

BUDGET ISOLATION RESOLUTION

Senator deGraffenried, B.I.R., SB 73, adopted.

Yeas 21 Nays 10

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Dial, Floyd, Foshee, Ghee, Lindsey, Mitchell, Mitchem, Parsons, Preuit, Sanders, Smith (B), Smith (J), Wilson, and Windom -21

Nays:

Senators:

Amari, Dixon, Ellis, Hale, Hilliard, Langford, Lipscomb, Little, Owens, and Waggoner -10

SPECIAL ORDER BILLS ON THIRD READING RESUMED

The Senate proceeded to consideration of the special, paramount, and continuing order of business for today, which was the Bill:

S. 73. To amend Section 17-20-1, Code of Alabama 1975, relating to the division of the state into congressional districts, so as to redistrict the congressional districts based upon the 1990 census.

Senator deGraffenried offered the following substitute for the Bill, SB 73, to-wit:

SUBSTITUTE FOR SB 73

A BILL TO BE ENTITLED AN ACT

To amend Section 17-20-1, Code of Alabama 1975, relating to the

division of the state into congressional districts, so as to redistrict the congressional districts based upon the 1990 census.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 17-20-1, Code of Alabama 1975, is hereby amended to read as follows:

"17-20-1.

"The state is hereby divided into seven congressional districts as follows:

"District 1: Baldwin County, Clarke County, Escambia County, Mobile County, Monroe County: Tract 9857, Tract 9858: Block Group 1: Block 103, Block 104, Block 105, Block 106, Block 107, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124; Block Group 2: Block 246, Block 247, Block 248, Block 251, Block 252, Block 253, Block 254, Block 255; Tract 9859, Tract 9860, Tract 9861, Tract 9862; Washington County.

"District 2: Barbour County, Butler County, Coffee County, Conecuh County, Covington County, Crenshaw County, Dale County, Geneva County, Henry County, Houston County, Lee County, Monroe County: Tract 9856, Tract 9858: Block Group 1: Block 101, Block 102, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230, Block 231, Block 232, Block 233, Block 234, Block 235, Block 236, Block 237, Block 238, Block 239, Block 240, Block 241, Block 242, Block 243, Block 244, Block 245, Block 249, Block 250, Block 256, Block 257, Block 258, Block 259; Montgomery County: Tract 0001: Block Group 1: Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 140, Block 141, Block 152, Block 153, Block 154, Block 155, Block 156, Block 157, Block 158, Block 159, Block 160, Block 161, Block 162, Block 163, Block 164, Block 165, Block 166, Block 167, Block 168, Block 169, Block 170, Block 171, Block 172, Block 173, Block 174, Block 175, Block 176, Block 177, Block 178, Block 179, Block 180, Block 181, Block 182, Block 183, Block 184, Block 185,

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Block 186, Block 187, Block 191, Block 192; Block Group 2: Block 208; Tract 0002: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 118, Block 119; Block Group 2: Block 201; Tract 0005: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315; Block Group 4: Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421; Tract 0006: Block Group 1: Block 111, Block 118; Tract 0009.85, Tract 0010: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 110, Block 111, Block 113, Block 114; Tract 0011: Block Group 1: Block 101; Tract 0013: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214; Tract 0014: Block Group 1: Block 101, Block 102, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221; Block Group 3: Block 301, Block 302, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412; Block Group 5: Block 505, Block 508, Block 509, Block 510, Block 511, Block 512, Block 515, Block 517, Block 518, Block 519, Block 520; Tract 0015: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120; Block Group 2: Block 201, Block 202, Block 203, Block 205, Block 206, Block 207,

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"District 3: Autauga County: Tract 0201, Tract 0202, Tract 0203, Tract 0204, Tract 0205, Tract 0206, Tract 0207, Tract 0208: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 109, Block 110A, Block 110B, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block

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"District 4: Blount County, Cherokee County, Cullman County, DeKalb County, Etowah County, Fayette County, Franklin County, Jefferson County: Tract 0113: Block Group 1: Block 161E, Block 166A, Block 166B, Block 167; Block Group 2: Block 246B, Block 247B, Block 248B, Block 248C, Block 250, Block 252, Block 253, Block 254A, Block 254C, Block 254D, Block 255, Block 256B, Block 260A, Block 260B, Block 261, Block 263A, Block 263B, Block 263C, Block 264A, Block 264B, Block 264C, Block 264D, Block 265A, Block 265B, Block 266A, Block 266B, Block 267, Block 268, Block 269, Block 270A, Block 270B, Block 270C, Block 270D, Block 271, Block 272; Block Group 5: Block 502, Block 503, Block 504, Block 505A, Block 505B, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517A, Block 517B, Block 518A, Block 518B, Block 519, Block 520, Block 521, Block 522, Block 523, Block 524, Block 525, Block 526, Block 527, Block 528A, Block 528B, Block 529, Block 530, Block 531, Block 532, Block 533A, Block 533B, Block 534, Block 535, Block 536, Block 537A, Block 537B, Block 538, Block 539, Block 540, Block 541A, Block 541B, Block 542A, Block 542B, Block 543, Block 544A, Block 544B; Tract 0114: Block Group 1: Block 119, Block 120; Block Group 2: Block 230, Block 231, Block 232A, Block 232B, Block 232C, Block 232D, Block 232E, Block 233, Block 257, Block 258, Block 259, Block 260A, Block 260B, Block 261; Block Group 3: Block

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"District 5: Colbert County, Jackson County, Lauderdale County, Limestone County, Madison County, Marshall County: Tract 0303: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 130; Block Group 2: Block 201, Block 202, Block 203, Block

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"District 6: Choctaw County, Hale County: Tract 9743: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105,

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Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

COMMITTEE REPORT FILED

In accordance with the provisions of Act No. 91-652, the annual report of the Permanent Joint Legislative Committee on Finances and Budgets was filed with the Secretary.

FURTHER CONSIDERATION OF SB 73

The Senate proceeded to further consideration of the Bill, SB 73. The question was on the deGraffenried substitute.

PETITION

At 3:25 P.M., pursuant to the provisions of Senate Rule 21, the following petition was read and ordered spread upon the Journal, to-wit:

PETITION

We, the undersigned, petition the Senate, pursuant to Senate Rule 21, that debate on the pending measure, SB 73, and pending substitute, shall cease at 4 o'clock P.M., on February 20, 1992.

RYAN DEGRAFFENRIED, JR.
DOUG GHEE
PAT LINDSEY
LOWELL BARRON

CHIP BAILEY
RAY CAMPBELL
BOBBY DENTON
HINTON MITCHEM

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**JIM PREUITT
STEVE WINDOM
JACK FLOYD
GEORGE R. BOLLING
GERALD DIAL**

Yeas 21 Nays 10
Abstaining 1

-21

-10

- 1

-19

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And said Bill, SB 73, as amended by the substitute, was read a

third time at length and passed and ordered sent forthwith to the House upon engrossment.

Yeas 19 Nays 11

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried, Dial, Floyd, Foshee, Ghee, Lindsey, Mitchell, Parsons, Preuitt, Smith (B), Smith (J), Wilson, and Windom -19

Nays:

Senators:

Amari, Dixon, Ellis, Figures, Hale, Hilliard, Langford, Lipscomb, Little, Owens, and Waggoner -11

Senator deGraffenried moved that the Senate reconsider the vote by which the Bill, SB 73, as amended, was passed, and further moved that the motion to reconsider be laid on the table. The motion to table prevailed.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

REPORT OF COMMITTEE

Senator Preuitt, Chairperson of the Standing on Rules reported that the following Bills have been placed on the Consent Calendar for today, to-wit:

By Senator Little:

S. 66. To provide for the adoption of Article 4A of the Uniform Commercial Code relating to funds transfers and to amend Section 7-1-105, Code of Alabama 1975, to provide for territorial application of the governing law under Article 4A; and to provide that this act shall become effective January 1, 1993.

By Senators Windom and Floyd:

S. 113. To provide for the adoption of article 2A of the Uniform Commercial Code relating to leases of personal property and to exclude therefrom all leases, including, without limitation, leases under the Uniform Commercial Code from certain statutes involving personal

property, by amending Sections 7-1-105, 7-1-201, 7-9-113, 35-4-54 and 35-4-94, Code of Alabama 1975; and to provide that this act shall become effective January 1, 1993.

MOTION IN WRITING

Senator Hilliard requested and received permission to suspend the Rules in order to offer the following Motion in Writing, to-wit:

I move that the Bill, SB 117, on page 12 of the 7th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 117, referred to the Standing Committee on Rules for placement on the Consent Calendar.

RESOLUTION

Senator Corbett requested and received permission to suspend the Rules in order to offer the following Senate Resolution, to-wit:

SR 20. URGING THE GOVERNOR TO REMOVE THE DISCOUNT FOR THE COLLECTION OF SALES TAX.

WHEREAS, the state education budget is in proration for the second year in a row; and

WHEREAS, a shortage of funds for education is threatening the opportunity for school children to receive a basic education; and

WHEREAS, the Governor, by executive order, is allowing businesses and other entities to retain a portion of the sales tax collected; and

WHEREAS, these funds are greatly needed at this time to finance education in our state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Governor Hunt is urged to discontinue the discount allowed for the collection of sales tax and rescind the Executive Order allowing any discount for the collection of sales tax.

BE IT FURTHER RESOLVED, That a copy of this resolution be

sent to Governor Hunt and Revenue Commissioner Sizemore.

Which was read and referred to the Standing Committee on Rules.

ADJOURNMENT

At 5:25 P.M., on motion of Senator deGraffenried, the Senate adjourned until Tuesday, February 25, 1992, at 2 o'clock P.M.

EIGHTH LEGISLATIVE DAY
TUESDAY, FEBRUARY 25, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by the Reverend Jim Salminen, Assistant Minister, Frazer Memorial United Methodist Church, Montgomery, Alabama.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Zakiya Wright, Jefferson Davis High School, Montgomery, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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**REPORT OF COMMITTEE
ON RULES ON
REVISION OF THE JOURNAL**

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Seventh Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator deGraffenried, leave of absence was granted Senators Dixon, Ellis, and Mitchem for today.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 73. To amend Section 17-20-1, Code of Alabama 1975, relating to the division of the state into congressional districts, so as to redistrict the congressional districts based upon the 1990 census.

JIM PREUITT,
Chairperson.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senator Denton:

S. 309. To amend Section 5-2A-22 of the Code of Alabama 1975, relating to bank audit requirements, to provide further for the manner and the frequency of the audit for each state bank.

Committee on Banking
and Insurance

By Senator Hale:

S. 310. To amend Section 40-1-47, Code of Alabama 1975,

relating to the investment of funds by certain county officials to include tax assessors.

Select Committee on
Fiscal Responsibility

By Senator Hale:

S. 311. Relating to funding domestic violence centers; to amend Section 30-6-6 of the Code of Alabama 1975, to remove the requirement that one-half of the funding for facilities must be from local sources.

Committee on Public Welfare

By Senator Hale:

S. 312. To provide that all deeds conveying an interest in real property shall contain, for ad valorem tax purposes, the mailing address of the grantee, and if more than one grantee, the mailing address of the grantee to whom statements and other notices regarding ad valorem taxes should be sent; and further providing that after the effective date of this act no deeds shall be accepted for recording in the probate courts of this state unless such information is contained therein.

Committee on Judiciary/Civil

By Senators Hale and Denton:

S. 313. To provide for the criminal offenses of theft of property by shoplifting in the first, second, and third degrees; to prescribe penalties for the offenses; to amend Sections 13A-8-4 and 13A-8-5 of the Code of Alabama 1975, to provide further for the offenses of theft of property in the second and third degrees; and to provide for a delayed effective date.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Hale (With Notice and Proof):

S. 314. Relating to Cullman County; to amend Sections 1 and 12 of Act No. 83-778, S. 559, 1983 Regular Session, to increase a county lodging tax and provide further for the use of the proceeds of the tax.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 314, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Floyd:

S. 315. Relating to the manner and location of execution of persons convicted of a capital offense to provide for execution of the death sentence by lethal injection.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senators Parsons, Amari, Lipscomb, and Owens:

S. 316. Relating to law enforcement officers; defines certain terms; provides for establishing professional standards relative to due process and rights of said officers during agency investigations.

Committee on Governmental
Affairs/State Administration

By Senator Parsons:

S. 317. Regulating air travel by public officers and employees; providing for sale of state owned aircraft and disposition of the proceeds from the sale.

Committee on Governmental
Affairs/State Administration

By Senator Parsons:

S. 318. Relating to the operation of motor vehicles; requiring, as a condition of registration and licensing a motor vehicle, and applying for a driver's license, proof of a motor vehicle liability insurance policy, in force, from an approved insurance company, or certain other financial responsibility; setting the minimum limits and policy coverage; providing penalties for violations and providing for an assigned risk plan for persons classified as high risks, and the effective date.

Committee on Banking
and Insurance

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By Senator Lindsey:

S. 319. To clarify, define, and re-affirm the sovereign relationship between the State of Alabama and the Choctaw Indians.

Committee on Judiciary/Civil

By Senator Bailey:

S. 320. To authorize the Department of Corrections to contract with private industry to establish, work-oriented rehabilitation programs in a private enterprise work environment subject to the approval of the Board of Contract Rehabilitation Review and to provide for the creation and authority of the Board of Contract Rehabilitation Review.

Committee on Governmental
Affairs/State Administration

By Senator Bailey:

S. 321. To revise and supplement the existing statewide system for registering certain vital records and statistical data; to provide further for an Office of Vital Statistics, a State Registrar of Vital Statistics, and local registration districts and local registrars; to provide for additional registration procedures and requirements regarding certain types of births, deaths, final dispositions, adoptions, marriages, and divorces; to provide procedures for amending vital records, disclosing information from vital records, and reproducing, searching, and copying vital records; to provide for the collection of fees for certain services; to provide for enforcement and penalties for violations; to provide for existing forms and application to existing records; and to repeal Sections 22-9-1 to 22-9-79, inclusive, Code of Alabama 1975.

Committee on Governmental
Affairs/State Administration

By Senators Mitchell, Hale, Denton, Smith (B), Owens, Lipscomb, and Waggoner:

S. 322. Relating to all civil actions in tort, contract or otherwise against materialmen who provide labor, material and supplies used in the construction of an improvement on or to real property; to provide a definite statute of limitations of three years after a cause of action accrues or arises in all such actions; to provide a bar to relief for all causes of action and to all rights of action which accrue more than seven

years after the substantial completion of construction of an improvement on or to the real property; to provide for an exception to the bar to relief with respect to actions accruing more than seven years after the substantial completion of construction of an improvement on or to real property where there is a written express warranty or indemnity which by the written terms thereof shall extend beyond the period of seven years; to provide when a cause of action accrues or arises; to provide that this act applies to causes of action which have accrued prior to its effective date; to provide that this act does not create any cause of action against materialmen or any other person; to define terms; and to repeal all conflicting laws.

Committee on Business
and Labor Relations

By Senator Mitchell:

S. 323. To amend Section 38-7-2 of the Code of Alabama 1975, to define certain terms and to provide for the licensing of certain facilities; to amend Section 38-7-5 of the Code of Alabama 1975, to provide for a probationary permit to be issued as an alternative to license revocation and for a demonstration permit or license; to amend Section 38-7-8 of the Code of Alabama 1975, to provide for the imposition of administrative fines and the suspension of licenses, permits, or approvals for certain reasons; to amend Section 38-7-9 of the Code of Alabama 1975, to provide for an administrative hearing and judicial review; to amend Section 38-7-11 of the Code of Alabama 1975, to provide that licenses, permits, and approvals may be suspended if an inspection discloses a hazard to the children, and to provide that no employee of a child-care facility may be subjected to reprisal or discharge because of his or her actions in reporting or disclosing certain information to the department about violations.

Committee on Small Business

By Senator Mitchell:

S. 324. To increase the attorney business license taxes, provide further for the collection of the taxes, and for the certification of names of licensed attorneys; and to amend Section 40-12-49, Code of Alabama 1975.

Committee on Finance
and Taxation

By Senators Mitchell, Smith (B), Mitchem, Lipscomb, Little, Owens, Bedsole, Bolling, Bailey, Smith (J), Foshee, Denton, Hale, Ellis,

deGraffenried, and Preuitt:

S. 325. Relating to civil actions against architects, engineers, and certain licensed general contractors; to provide a statute of limitations of three years after a cause of action accrues or arises in certain cases; to provide that all causes of action and to all rights of action which accrue more than seven years after the substantial completion of construction of an improvement to real property shall be barred; to provide when a cause of action accrues or arises; and to provide a savings clause to causes of action which have accrued prior to the effective date of this act.

Committee on Business
and Labor Relations

By Senator Bedsole:

S. 326. To propose a constitutional amendment to amend Section 6.10 of Amendment No. 328 of the Constitution of 1901, to clarify that the unified judicial system is subject to the appropriation and budget process in the same manner as the remainder of state government.

Committee on Constitution
and Elections

The above Bill was read a first time at length as required by the Constitution.

By Senator Bedsole:

S. 327. To create the Respiratory Care Act to provide for the regulation and licensing of persons administering respiratory care; to provide for the powers, duties, and responsibilities of the Alabama State Board of Respiratory Care; to create a special fund for receipts collected by the board and the administration of the fund; to make appropriations from the Alabama State Board of Respiratory Care Fund to the Alabama State Board of Respiratory Care; and to provide for prohibited acts and penalties.

Committee on Health

By Senators Wilson, Parsons, Lindsey, Corbett, Bailey, Windom, Langford, Bennett, Campbell, Ghee, Foshee, Floyd, Figures, Horn, Bedsole, Amari, Sanders, and Hilliard:

S. 328. To establish the Alabama Employers Workers' Com-

pensation Insurance Authority to provide a plan for workers' compensation insurance in Alabama; and to authorize the implementation of the Alabama Employers Workers' Compensation Trust.

Committee on Banking
and Insurance

By Senator Campbell:

S. 329. To prohibit the enactment by local governmental units of ordinances, resolutions, or rules controlling the amount of rent charged for leasing private property; and to provide for the retroactive effect of this act.

Committee on Governmental
Affairs/Local Government

By Senator Ghee:

S. 330. To name the primary education trust fund of the state the "Education Trust Fund" and to provide for a prospective effective date.

Committee on Finance
and Taxation

By Senator Bedsole:

S. 331. To amend Section 2-27-10, Code of Alabama 1975, which provides for the licensing of restricted-use pesticide sellers and dealers, so as to raise the annual license.

Committee on Consumer Affairs

By Senator Bedsole:

S. 332. To amend Section 2-27-53, Code of Alabama 1975, which provides for the licensing and examination of persons engaged in the custom application of pesticides, so as to increase the licensing fees.

Committee on Consumer Affairs

By Senator deGraffenried:

S. 333. To revise the Alabama Workmen's Compensation Law;

to amend Articles 1, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation specialist program, mandatory benefit review conferences; and to repeal Sections 25-5-16, 25-5-70 to 25-5-75, inclusive, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975.

Committee on Rules

By Senator Ghee:

S. 334. To amend Section 17-8-2 of the Code of Alabama 1975, to require withdrawals from an election by candidates 50 or more days before that election.

**Committee on Constitution
and Elections**

By Senator Ghee:

S. 335. To amend Section 17-10-3 of the Code of Alabama 1975, to provide for absentee voting, to provide for a special state write-in absentee ballot, and to provide for an oath for military personnel and dependents.

**Committee on Constitution
and Elections**

By Senator Ghee:

S. 336. To amend Section 21-4-22 of the Code of Alabama 1975, to require that certain guidelines to assure accessibility of registration and polling places for handicapped and elderly individuals apply at all elections.

**Committee on Constitution
and Elections**

By Senator Ghee:

S. 337. To provide for the "Sore Losers Prevention Act" and to amend Section 17-7-1 of the Code of Alabama 1975, to extend the time of qualification of candidates for public office for filing petitions for ballot access for a general election.

**Committee on Constitution
and Elections**

By Senator Ghee:

S. 338. To amend Section 17-6-8 of the Code of Alabama 1975, to provide for poll watchers in referendum elections.

Committee on Constitution
and Elections

By Senator Ghee:

S. 339. To amend Section 17-6-13 of the Code of Alabama 1975, to provide for an increase in compensation for returning officers, inspectors, and clerks.

Committee on Constitution
and Elections

By Senator Ghee:

S. 340. To amend Section 17-4-153 of the Code of Alabama 1975, relating to the mileage allowance of members of boards of registrars.

Committee on Constitution
and Elections

By Senator Ghee:

S. 341. To amend Section 17-8-29 of the Code of Alabama 1975, to provide further for the casting of ballots by electors and assistance to the electors.

Committee on Constitution
and Elections

By Senator Ghee:

S. 342. To amend Section 17-8-25 of the Code of Alabama 1975, to provide for the number of paper ballots at each voting place.

Committee on Constitution
and Elections

By Senator Ghee:

S. 343. To amend Section 17-19-7 of the Code of Alabama 1975, to provide for the electoral meeting for electors of the President

and Vice-President of the United States.

Committee on Constitution
and Elections

By Senator Sanders:

S. 344. To establish medical assistance facilities; to provide for standby emergency medical services; to provide for basic medical holding and stabilization capacity; to provide basic ambulatory care; to provide basic laboratory care; to provide for birthing centers; to provide for nurse midwives; to provide for physicians on call; to provide for wellness clinics; and to provide for funding.

Committee on Health

By Senator Sanders:

S. 345. To provide for nurse practitioners to participate more fully in rural health care.

Committee on Health

By Senator Sanders:

S. 346. To authorize each county in the state to acquire, own and operate one or more jails, prisons or other criminal detention facilities; to grant to each county the power to enter into agreements with other governmental entities pursuant to which inmates are transferred from other jurisdictions to be incarcerated within a facility maintained by such county; to specify the conditions under which each county may enter into such agreements with governmental entities located outside the state of Alabama; to provide for the respective responsibilities of the sheriff of each county and the county commission of each county with respect to the maintenance and operation of any such facility; to authorize said sheriff and said county commission to delegate or assign all or a portion of such responsibilities to others pursuant to contract; to provide for a referendum of the voters of any county on the question of whether this act will become effective in such county; to provide for the disposition of the net revenues received by any county from the operation of any jail, prison or other criminal detention facility pursuant to this act; to grant certain rights and powers to the Alabama department of corrections and the commissioner thereof with respect to the approval of any such facility and the monitoring of the operation thereof; and to provide that any contracts entered into by a county or by a sheriff of a

county pursuant to the provisions of this act shall be exempt from competitive bid laws.

Committee on Governmental
Affairs/State Administration

By Senator Sanders:

S. 347. To provide for nurse midwives as the basic obstetric service for rural areas; to reestablish the nurse midwifery program at the University of Alabama in Birmingham; and to provide for liability insurance.

Committee on Health

By Senator Sanders:

S. 348. To attract physicians and other medical practitioners in rural areas of Alabama, through loan forgiveness, payments toward malpractice insurance and a tax exemption.

Committee on Health

MOTION IN WRITING

Senator Langford offered the following Motion in Writing, to-wit:

I move that the Bill, SB 15, on page 6 of the 8th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 15, referred to the Standing Committee on Rules for placement on the Consent Calendar.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Reps. McClain and Petelos (With Notice and Proof):

H. 43. To alter, rearrange and extend the boundary lines and

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corporate limits of the municipality of Midfield in Jefferson County.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 43, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Cullins (With Notice and Proof):

H. 294. Relating to Tallapoosa County; to provide for the operation of bingo games for prizes or money by qualified organizations for bona fide charitable, educational, or other lawful purposes; to provide for permits or licenses, applications, forms, and contents to operate bingo and the revocation thereof; to provide for special permits or licenses; to prohibit certain activities; to provide for fees and expenses; to provide for the disposition of proceeds; to provide for the keeping of records and their inspection; to provide for supervision by the Circuit Court; to provide for certain powers and duties of the Sheriff; to provide for penalties and forfeitures; and to provide that this act shall become effective upon the adoption of an Amendment to the Constitution of Alabama of 1901 authorizing bingo in Tallapoosa County.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 294, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Reps. Venable and Mikell (With Notice and Proof):

H. 310. Relating to the governing body of Elmore County; to provide for five commissioners elected from single-member districts; to provide for the election of one commissioner to serve as chair; to provide for an additional salary for the chair; to provide that the judge of probate no longer serve as ex officio member of the commission or as chair; to provide for the boundaries of the five commission districts according to a map prepared by the Central Alabama Regional Planning and Development Commission and adopted by the county commission; to authorize

the creation of voting centers; and to repeal conflicting laws, including but not limited to, Act No. 84-656, H. 973, Regular Session 1984 (Acts 1984, p. 1307).

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 310, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committees, as follows:

HB 43 - to the Committee on Local Legislation No. 2

HB's 294 and 310 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Cullins:

H. 56. To propose an amendment to the Constitution of Alabama of 1901; to authorize the operation of bingo games for prizes or money by certain nonprofit organizations for charitable or educational purposes in Tallapoosa County.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate

Standing Committee, as follows:

HB 56 - to the Committee on Local Legislation No. 1

(The above Bill was read a first time at length as required by the Constitution.)

REPORTS OF COMMITTEES

Senator Windom, Chairperson of the Standing Committee on Banking and Insurance, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Foshee:

S. 25. To amend Sections 27-13-66 and 27-13-72 of the Code of Alabama 1975, relating to the filing of certain statistical and financial data or reports by casualty insurance carriers with the Department of Insurance pursuant to a request for a rate adjustment; to require that those data or reports filed by workmen's compensation carriers be made available to the public by the Department of Insurance, upon request, at any time after the filing.

By Senator Windom:

S. 62. To create the position of insurance consumer advocate; to provide for the appointment, qualifications, and compensation of the insurance consumer advocate; to provide for annual review by committees of the Senate and the House of Representatives; to restrict a person formerly employed as insurance consumer advocate from direct or indirect employment by an insurance company for a certain time period; to prohibit a person employed as insurance consumer advocate from holding a state or local elected office; to provide penalties; to provide for the powers, duties, and responsibilities of the insurance consumer advocate; to provide for serving notice on the insurance consumer advocate by the Commissioner of Insurance; and to provide for staff, employees, and the use of technical assistants.

By Senator Windom:

S. 63. To amend Sections 27-13-28 and 27-13-66, Code of Alabama 1975, which relate to the annual statistical reports of insurance companies, so as to provide that certain information shall be public

record; and to provide for a fine levied and collected by the commissioner, after a special hearing, for any person who, without prior written authorization, obtains any records, data or other information, or access thereto, of an insurance company or rate organization with the intent to convey such records, data or information to another company or organization for the purpose of affecting rates or gaining a competitive business advantage.

By Senator Windom:

S. 67. To amend Sections 27-13-28 and 27-13-66, Code of Alabama 1975, which relate to the annual statistical reports of insurance companies, so as to provide that certain information shall be made available to certain agencies and officials; and to provide for a fine levied and collected by the commissioner, after a special hearing, for any person who, without prior written authorization, obtains any records, data or other information, or access thereto, of an insurance company or rate organization with the intent to convey such records, data or information to another company or organization for the purpose of affecting rates or gaining a competitive business advantage.

By Senator Windom:

S. 68. Relating to insurance rates approved for workmen's compensation insurance carriers; to provide further for those rates.

Senator Windom, Chairperson of the Standing Committee on Banking and Insurance, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senator Foshee (With Amendment):

S. 247. To amend Sections 27-40-1, 27-40-8, 27-40-9, 27-40-12, 27-40-15 and 27-40-17, Code of Alabama 1975, relating to insurance premium finance companies so as to provide further for the regulation of such companies; to delete certain references to and authorization for designated agents; to provide for a maximum service charge; to require premium finance agreements to contain certain information; to substantially alter the procedure for return of gross unearned premiums upon cancellation of the insurance contract; to provide for time limits for the return of unearned premiums; and to provide where the amount of premium financed shall be sent.

Senator Windom, Chairperson of the Standing Committee on Banking and Insurance, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senators Bailey, Amari, Windom, Owens, Mitchell, Lipscomb, Preuitt, Ellis, Hale, Dial, Bolling, Dixon, and Ghee:

S. 261. To provide for mandatory professional liability insurance for all abortion or reproduction health centers as defined by state law; to require the obtaining of professional liability insurance by abortion or reproduction health centers in order to obtain a license to operate, renewal of a license, or for continued operation.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senators Dial, Barron, Waggoner, Owens, Mitchem, Lipscomb, Little, Bedsole, Ellis, Preuitt, Denton, and Bolling:

S. 31. Providing certain educational assistance benefits for certain active members of the Alabama national guard.

By Senators Bennett, Ellis, Waggoner, Ghee, Amari, Wilson, Dixon, Bedsole, Horn, Little, Dial, Mitchell, Owens, Hale, Denton, Parsons, deGraffenried, Campbell, Lipscomb, Floyd, and Barron:

S. 102. Proposing an Amendment to the Constitution of Alabama of 1901, to authorize the levy of a minimum local ad valorem tax and provide the procedure to increase local ad valorem taxes.

The above Bill was read a second time at length as required by the Constitution.

By Senator Horn:

S. 288. To create and establish the Alabama School of Fine Arts to be governed by a board of trustees.

Senator Mitchell, Chairperson of the Standing Committee on Governmental Affairs/State Administration, reported that said committee,

in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Mitchell:

S. 237. To provide further for the administration, powers, and duties of the Legislative Reference Service by amending Sections 29-7-2, 29-7-4, 29-7-5, and 29-7-6 and repealing Section 29-7-3 of the Code of Alabama 1975.

By Senator Bedsole:

S. 284. To amend Sections 44-1-51 and 44-1-53, Code of Alabama 1975, relating to the Youth Services Board to provide for the expansion of membership to the board, for compensation to the board, and the requirements for a quorum at board meetings.

Senator Mitchell, Chairperson of the Standing Committee on Governmental Affairs/State Administration, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senators Mitchell and Bennett (With Substitute):

S. 285. To provide for a civil cause of action against certain employers who take action detrimental to certain defined employees because the employee reports a violation of law or participates in a formal inquiry or court action.

Senator Bennett, Chairperson of the Standing Committee on Education, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Windom:

S. 94. To further provide for school attendance standards and the operation of motor vehicles by certain students; to provide for certain exceptions; to provide that the state board of education and each local school system shall develop and distribute guidelines and information to affected parties; and to provide for the conditions to revoke or deny certain students the privilege of operating a motor vehicle; to provide a

citation for the act which this bill becomes; and to provide an effective date.

By Senators Bennett and Wilson:

S. 197. To amend Sections 16-8-25 and 16-12-21, Code of Alabama 1975, pertaining to vacations and leaves of absence, so to further allow local boards of education greater flexibility in the development of local board policies.

Senator Bolling, Chairperson of the Standing Committee on Consumer Affairs, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Denton:

S. 272. To amend Section 8-17-217, Code of Alabama 1975, relating to permissible fireworks, to exclude bottle rockets specifically from the definition of fireworks that may be sold within the state by establishing minimum size requirements for sky rockets, but to provide that such devices may be stored by licensed manufacturers, distributors and wholesalers within the state for sale outside the state, and to provide for an effective date.

Senator Figures, Chairperson of the Standing Committee on Local Legislation No. 3, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Rep. Zoghby (With Notice and Proof):

H. 26. Relating to Mobile County, amending Act No. 91-370, H. 891, 1991 Regular Session, which provides for the compensation of the license commissioner, so as to correct a typographical error.

By Rep. Zoghby (With Notice and Proof):

H. 27. Relating to Mobile County, amending Act No. 722, H. 1196, 1976 Regular Session, relating to issuance fees, so as to provide further for such fees.

By Rep. Turner (With Notice and Proof):

H. 36. Relating to the City of Wilmer in Mobile County; to

amend Section II of Act No. 470, H. 952, 1939 Regular Session (Local Acts 1939, p. 298) as amended, which created and established the countywide civil service system in Mobile County, so as to provide further for exemptions and to provide for municipal employees to vote for removal from said system.

Senator Figures, Chairperson of the Standing Committee on Local Legislation No. 3, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time, to-wit:

By Rep. Harper (With Notice and Proof) (With Amendment):

H. 74. Relating to Mobile County; to amend Act No. 86-545, S. 655, 1986 Regular Session, which creates a County Racing Commission, to delete the residency requirements for certain applicants, owners, and employees; to alter the permissible number of racing days; to authorize a licensee to receive and transmit certain racing broadcasts and to provide that wagering on broadcasts shall be subject to the same commissions as live racing; to further provide for the tax on the contributions to all pari-mutuel pools, the licensees' amount of commission, and the distribution of amounts due on outstanding unredeemed mutuel tickets; to require certain funds be used for capital improvements; to provide further for the distribution of monies received under this act; and to regulate the expenditures of the commission.

BILL REFERRED

Pursuant to the provisions of Senate Rule 51, the President and Presiding Officer of the Senate ordered said Bill, HB 74, referred to the Standing Committee on State Development and Tourism.

STATEMENT BY THE PRESIDENT AND PRESIDING OFFICER

The President and Presiding Officer of the Senate stated that the Standing Committee on State Development and Tourism will meet while the Senate is in session today.

RESOLUTION

Senator Denton offered the following Senate Joint Resolution, to-wit:

SJR 21. COMMENDING DR. LARRY W. MCCOY FOR OUTSTANDING EDUCATIONAL AND COMMUNITY SERVICE.

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WHEREAS, it is with highest commendation that the Alabama Legislature notes the distinguished career and outstanding accomplishments of Dr. Larry W. McCoy in service to education and his community; and

WHEREAS, a native of Tuscaloosa County, and the son of Ollie and Wyman McCoy, Dr. McCoy graduated from Tuscaloosa High School, received his B.S. degree from the University of Alabama, a Masters degree from Athens College, and a Doctorate from Nova University; and

WHEREAS, Dr. McCoy moved to the Shoals area as president of Muscle Shoals Technical College on September 1, 1987, and, as a result of the merger of Muscle Shoals Technical College with Northwest Junior College in Tuscumbia, became the first president of Shoals Community College which has grown from 977 students at the time of the merger to over 3,000 students today; and

WHEREAS, Dr. McCoy has a distinguished career of 33 years in education and his able leadership has directed Shoals Community College to full membership in the Commission on Colleges of the Southern Association of Colleges and Schools; and

WHEREAS, in tribute to the many accomplishments of his tenure, the Alabama State Board of Education has named and designated the new Learning Resources Center located at Shoals Community College as, "The Larry W. McCoy Learning Resources Center"; and

WHEREAS, Dr. McCoy, past president of the Chamber of Commerce of the Shoals, is a member of the Board of Directors of Colonial Bank and the Shoals Industrial Development Authority, as well as numerous other civic and professional organizations; he also is a member of the Executive Board of the Tennessee Valley Council of Boy Scouts of America and is the recipient of the Silver Beaver Award, the highest honor bestowed on an individual by the Boy Scouts; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in the recognition of outstanding contributions and service to education and the community, we hereby most highly commend Dr. Larry W. McCoy, president of Shoals Community College.

BE IT FURTHER RESOLVED, That copies of this resolution of sincere tribute be prepared for presentation to Dr. McCoy and to his

parents, Mr. and Mrs. Wyman McCoy.

On motion of Senator Denton, the Rules were suspended and the Resolution was adopted by the Senate.

MOTIONS IN WRITING

Senator Floyd offered the following Motions in Writing, to-wit:

I move that the Bill, SB 209, on page 14 of the 8th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Also:

I move that the Bill, SB 203, on page 30 of the 8th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which were adopted, and the President and Presiding Officer of the Senate ordered said Bills, SB's 209 and 203, referred to the Standing Committee on Rules for placement on the Consent Calendar.

RESOLUTIONS

Senators Wilson, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, and Windom offered the following Senate Joint Resolution, to-wit:

SJR 22. COMMENDING WILLIAM FRED HORN OF BIRMINGHAM, ALABAMA.

WHEREAS, Senator William Fred Horn retired recently following an illustrious career with the Birmingham Public School System as teacher, counselor, high school coach, and director of middle school athletics; and

WHEREAS, Senator Horn, a former Coach of the Year, and the first coach in Alabama to integrate high school athletics, is the recipient of numerous distinctions in recognition of professional achievement and service, and the accomplishments of his career clearly reflect his on-going efforts as a champion of the cause of public education in the State of Alabama; and

WHEREAS, in 1978, however, Fred Horn significantly broadened his base for positive impact upon public school education through election to the Alabama House of Representatives and, since 1984, as a member of the Alabama Senate where he most ably represents the constituents of the 18th Senatorial District, and continues to evidence his concern for the young people of this state through legislative leadership; and

WHEREAS, as chairman of the Senate Finance and Taxation Committee, Senator Horn has been responsible for securing equitable funding of some \$13 million for black institutions in Alabama, and has zealously pushed for adequate funding at all levels of public education; and

WHEREAS, also as a state legislator, his successful intervention in negotiations with U. S. Steel resulted in the corporation's relocation to Jefferson County, and both his district and the state have greatly benefitted from his support of legislation in the interest of and to the benefit and well-being of all citizens throughout Alabama; and

WHEREAS, Senator Horn, one of our state's most prominent educators and a distinguished member of the Legislature, has received countless accolades for his effective leadership and, as friends and colleagues, we join in public acknowledgment of his many outstanding contributions to state government and most particularly, on the occasion of his retirement, to public education; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement and service, we hereby most heartily commend William Fred Horn of Birmingham, Alabama, to whom a copy of this resolution of highest personal esteem shall be presented.

On motion of Senator Wilson, the Rules were suspended and the Resolution was adopted by the Senate.

Senators Dial, Hale, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom offered the following Senate Joint Resolution, to-wit:

SJR 23. MOURNING THE DEATH OF JAMES J. KOHN OF PINE LEVEL, ALABAMA.

WHEREAS, it is with profound sorrow and a deep sense of loss that the Legislature of Alabama records the death of James J. Kohn of Pine Level, Alabama, on August 17, 1991; and

WHEREAS, a highly successful contractor and businessman, Mr. Kohn was president of Kohn Construction Company, Inc., in Pine Level; president of James J. Kohn Motor Company; founder of Sikes and Kohn Country Mall in Pine Level; and owner of the Cloverleaf Plaza and J. K.'s Discount Center, also located in Pine Level; and

WHEREAS, he was a distinguished veteran of the Korean War, and a colonel and provost marshal in the Alabama State Defense Force; he also was a longtime, dedicated member and deacon of Pine Level Baptist Church; and for many years, was an active participant in the political process through involvement in local and statewide campaigns, beginning with the late Governor James E. "Big Jim" Folsom, to the present Lieutenant Governor Jim Folsom, Jr.; and

WHEREAS, James J. Kohn was indeed a man of outstanding accomplishment, an enthusiastic supporter of civic and community endeavors, and was an exemplary citizen whose perseverance in service to others impacted greatly to the good and well-being of his local community and the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of James J. Kohn of Pine Level, Alabama, and extend our very deepest sympathy to his wife, Mrs. Helen W. Kohn; daughters, Shirley K. Sikes and Rhonda K. Gardner; to his son, Robert S. Kohn II; and to other family members, for whom a copy of this resolution of sincere condolence shall be provided.

On motion of Senator Dial, the Rules were suspended and the Resolution was adopted by the Senate.

BILLS ON THIRD READING

THE BILL:

S. 54. Relating to Bullock County; providing that the members of the county commission and county board of education shall run for election from four single-member districts and elected for staggered terms; providing that the chairman of each body shall run for election at-large; providing that the county commission shall develop said districts; and providing for a referendum.

was taken up.

On motion of Senator Corbett, the Rules were suspended and further consideration of the Bill, SB 54, was postponed subject to the call of the Chair.

Senator Windom requested and received permission to suspend the Rules in order to bring up the Bill:

S. 24. Relating to Mobile County; to amend Act No. 86-545, S. 655, 1986 Regular Session, which creates a County Racing Commission, to delete the residency requirements for certain applicants, owners, and employees; to alter the permissible number of racing days; to authorize a licensee to receive and transmit certain racing broadcasts and to provide that wagering on broadcasts shall be subject to the same commissions as live racing; to further provide for the tax on the contributions to all pari-mutuel pools, the licensees' amount of commission, and the distribution of amounts due on outstanding unredeemed mutuel tickets; to require certain funds be used for capital improvements; to provide further for the distribution of monies received under this act; and to regulate the expenditures of the commission.

On motion of Senator Windom, the Rules were suspended and further consideration of the Bill, SB 24, was postponed subject to the call of the Chair.

BUDGET ISOLATION RESOLUTION

Senator Mitchell, B.I.R., SB 64, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Dial, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Parsons, Preuitt, Sanders, Waggoner, Wilson, and Windom

-25

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 64. To alter, rearrange and extend the boundary lines and

corporate limits of the municipality of Luverne in Crenshaw County.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Dial, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Parsons, Preuitt, Sanders, Waggoner, Wilson, and Windom -25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Little, B.I.R., SB 131, adopted.

Yeas 21 Nays 2

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Denton, Dial, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuitt, Sanders, Smith (J), and Waggoner -21

Nays:

Senators:

Amari and Parsons

- 2

BILLS ON THIRD READING RESUMED

THE BILL:

S. 131. To amend Section 36-29-14, Code of Alabama 1975, which provides the procedure for officers, employees and retirees of certain cities, towns, fire districts, water and fire authority districts and the Alabama League of Municipalities to be covered under the state employees' health insurance plan, so as to include employees of regional planning and development commissions, and regional councils and area agencies on aging within the coverage.

was taken up.

The Standing Committee on Governmental Affairs/Local Govern-

ment reported the following substitute for the Bill, SB 131, to-wit:

SUBSTITUTE FOR SB 131

**A BILL
TO BE ENTITLED
AN ACT**

To amend Act No. 90-624, H. 570, 1990 Regular Session, codified as Section 36-29-14, Code of Alabama 1975, which provides the procedure for officers, employees and retirees of certain cities, towns, fire districts, water and fire authority districts and the Alabama League of Municipalities to be covered under the state employees' health insurance plan, so as to authorize certain additional state, county and municipal agencies and regional planning and development commissions to participate in the plan; to provide additional eligibility requirements for those entities wishing to participate in said plan; to provide procedures regarding revocation of participation in said plan.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Act No. 90-624, H. 570, 1990 Regular Session, codified as Section 36-29-14, Code of Alabama 1975, is hereby amended to read as follows:

"(a) Any agency of the state, any county, any municipality, any
~~The governing body of any city, town, fire or water district, water and~~
~~fire authority district or authority, any regional planning and~~
~~development commission established pursuant to Sections 11-85-50~~
~~through 11-85-73 of the Code of Alabama 1975, that is not a member of~~
~~an existing government sponsored health insurance program, or the~~
~~Alabama league of municipalities may, by resolution legally adopt to~~
~~conform to rules prescribed by the state employees' insurance board,~~
~~elect to have its officers, employees and retired employees become~~
~~eligible for health insurance coverage under the State Employees'~~
~~Insurance Board to be covered under the state employees' health insur-~~
~~ance plan as a separate group without any liability to the state or the state~~
~~employees' health insurance plan. The terms "officers" and~~
~~"employees" as used in this section shall include those persons appointed~~
~~or employed by the individual officers and performing their duties in~~
~~public office.~~

"(b) Acceptance of the employees identified in subsection (a)
shall be optional with the state employees' insurance board; provided,
however, there shall be at least 5,000 such employees becoming

~~members of the state employees' insurance plan pursuant to this section before the board shall allow participation of such employees.~~

"(c) Employees, officers and retirees who are eligible for health insurance covered by the state employees' health insurance plan pursuant to this section shall be entitled to the coverage and benefits as designated by the State Employees' Insurance Board under the plan as though they were state employees.

"(d) Any portion of tThe cost of the insurance coverage as determined by the State Employees' Insurance Board for the employees, officers and retirees and their dependents pursuant to this section may be paid by the employer; ~~however, the employer shall determine how the cost of dependent coverage shall be paid.~~

"(e) The chief fiscal officer of each employer shall pay remit to the state employees' ~~health~~ insurance board the amount of premiums required for employee and dependent coverage under this section. The employer shall furnish the necessary information to the state employees' insurance board.

"(f) The agreement of any employer to have its employees, officers and retirees to be covered under the ~~state employees' health insurance plan provided by the State Employees' Insurance Board shall be irrevocable for two years and thereafter~~ may be revoked only by complying with the following provisions:

"(1) The employer, by resolution of the governing body, shall signify its intention and desire to withdraw from such plan in writing and by delivering a copy of such resolution to the state employees' ~~health~~ insurance board. Any employer that withdraws from participation in such plan shall be responsible for paying its proportionate share of liability, if any, for any claims incurred prior to the date of withdrawal, but not reported and paid prior to the date of withdrawal as actuarially determined by the State Employees' Insurance Board.

"(g) The state employees' insurance board shall promulgate such rules and regulations as may be necessary for the effective administration of the provisions of this section."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

**REGULAR SESSION
8th Day**

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Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, deGraffenried, Dial, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Smith (J), Waggoner, and Windom -21

Nays:

- 0

And said Bill, SB 131, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 23 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Denton, Dial, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Smith (B), Smith (J), Waggoner, and Windom -23

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Little, B.I.R., SB 132, adopted.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Bennett, Bolling, Denton, Dial, Figures, Floyd, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Owens, Parsons, Preuitt, Smith (B), Waggoner, and Windom -19

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 132. To create an Alabama Clearinghouse for State Publications within the Alabama Public Library Service and provide for its operations, duties and authority; to authorize the promulgation of reason-

able rules and regulations; to provide for the creation of state publications depositories; and to repeal section 41-6-12, Code of Alabama 1975, which requires the printing of certain state publications.

was taken up.

The Standing Committee on Consumer Affairs reported the following amendment to the Bill, SB 132, to-wit:

AMENDMENT TO SB 132

Amend Senate Bill No. SB 132, on Page 4, Line 30, as follows:

After the word "Alabama" add the following word: "Public"

Which was adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bolling, Dial, Figures, Floyd, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Owens, Parsons, Preuitt, Smith (B), Waggoner, and Windom
-18

Nays:

- 0

And said Bill, SB 132, as thus amended, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 18 Nays 1

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Corbett, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Owens, Parsons, Preuitt, and Windom
-18

Nay: Senator Hilliard

- 1

BUDGET ISOLATION RESOLUTION

Senator Windom, B.I.R., SB 66, adopted.

Yeas 18 Nays 0

**REGULAR SESSION
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Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Figures, Floyd, Foshee, Hale, Hilliard, Horn, Langford, Lindsey, Little, Owens, Parsons, Preuitt, Smith (J), and Windom -18

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 66. To provide for the adoption of Article 4A of the Uniform Commercial Code relating to funds transfers and to amend Section 7-1-105, Code of Alabama 1975, to provide for territorial application of the governing law under Article 4A; and to provide that this act shall become effective January 1, 1993.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Corbett, deGraffenried, Figures, Floyd, Foshee, Hale, Horn, Langford, Little, Owens, Parsons, Preuitt, Smith (J), and Windom -18

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Floyd, B.I.R., SB 113, adopted.

Yeas 19 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, deGraffenried, Floyd, Foshee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Smith (J), and Windom -19

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 113. To provide for the adoption of article 2A of the Uni-

form Commercial Code relating to leases of personal property and to exclude therefrom all leases, including, without limitation, leases under the Uniform Commercial Code from certain statutes involving personal property, by amending Sections 7-1-105, 7-1-201, 7-9-113, 35-4-54 and 35-4-94, Code of Alabama 1975; and to provide that this act shall become effective January 1, 1993.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bolling, Corbett, deGraffenried, Dial, Figures, Floyd, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Owens, Preuit, Sanders, Smith (B), Smith (J), Waggoner, and Windom -21

Nays:

- 0

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bills with the original Senate Bills and finds same correctly engrossed, to-wit:

S. 131. To amend Act No. 90-624, H. 570, 1990 Regular Session, codified as Section 36-29-14, Code of Alabama 1975, which provides the procedure for officers, employees and retirees of certain cities, towns, fire districts, water and fire authority districts and the Alabama League of Municipalities to be covered under the state employees' health insurance plan, so as to authorize certain additional state, county and municipal agencies and regional planning and development commissions to participate in the plan; to provide additional eligibility requirements for those entities wishing to participate in said plan; to provide procedures regarding revocation of participation in said plan.

Also:

S. 132. To create an Alabama Clearinghouse for State Publications within the Alabama Public Library Service and provide for its operations, duties and authority; to authorize the promulgation of

reasonable rules and regulations; to provide for the creation of state publications depositories; and to repeal section 41-6-12, Code of Alabama 1975, which requires the printing of certain state publications.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

Senator Langford, Chairperson of the Standing Committee on State Development and Tourism, reported that said committee, in session, had acted on the Bill, HB 74, and ordered same returned to the Senate with a favorable report, and placed on the calendar.

BUDGET ISOLATION RESOLUTION

Senator Bedsole, B.I.R., SB 24, adopted.

Yeas 15 Nays 3

Yeas:

Senators:

Bedsole, Bolling, Denton, Dial, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Preuitt, Sanders, Smith (J), and Windom -15

Nays:

Senators:

Lipscomb, Little, and Owens

- 3

FURTHER CONSIDERATION OF SB 24

The Senate proceeded to further consideration of the Bill, SB 24.

The Standing Committee on Local Legislation No. 3 reported the following amendment to the Bill, to-wit:

AMENDMENT TO SB 24

Amend SB 24, on Page 10, Line 19, as follows:

Delete "\$100.00 for each day they meet" and insert in lieu thereof the following:

"\$100.00 each month"

On motion of Senator Bedsole, said amendment was laid on the table.

Senator Bedsole then offered the following amendment to the Bill, SB 24, to-wit:

AMENDMENT TO SB 24

Amend Senate Bill 24 Section 18, Page 10, Line 18, after the word "exceed" by striking the following:

Line 19 in its entirety and Line 20 through the word "Fund".

And substituting in lieu thereof the following:

"\$150.00 per month to be paid out of the Fund."

Which was adopted.

Yeas 15 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Parsons, Preuit, Sanders, and Windom -15

Nays:

- 0

The President and Presiding Officer of the Senate declared a quorum of the Senate was present but not voting.

Senator Windom offered the following amendment to the Bill, SB 24, as amended, to-wit:

AMENDMENT TO SB 24, AS AMENDED

Amend Senate Bill, as amended, No. 24 Page 1 Line 33, as follows:

Delete the period and add the words ", except Sundays."

Which was adopted.

Yeas 16 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Figures, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Parsons, Preuit, Sanders, and Windom -16

Nays:

- 0

The President and Presiding Officer of the Senate declared a quorum of the Senate was present but not voting.

Senator Windom then offered the following amendment No. 2 to the Bill, SB 24, as amended, to-wit:

AMENDMENT TO SB 24, AS AMENDED

Amend Senate Bill, as amended, No. 24 Page 3 Line 20, as follows:

Delete paragraph "b" in its entirety and substitute in lieu thereof the following:

"b. Transmit broadcasts of dog races to tracks located outside of Mobile County and to other authorized facilities located outside of the State of Alabama. The gross proceeds retained by the licensee on all wagering by patrons on dog races broadcast under this section shall be subject to the same percentage commissions as are paid by the licensee to the Racing Commission on live races held at the pari-mutuel facility."

Which was adopted.

Yeas 15 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Figures, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Parsons, Preuit, and Windom -15

Nays:

- 0

The President and Presiding Officer of the Senate declared a quorum of the Senate was present but not voting.

And said Bill, SB 24, as thus amended, was read a third time at length and passed and ordered sent forthwith to the House upon engrossment.

Yeas 11 Nays 7
Abstaining 2

Yeas:

Senators:

Bedsole, Bennett, Corbett, Figures, Floyd, Hale, Langford, Lindsey, Preuit, Sanders, and Windom -11

Nays:

Senators:

Amari, Bolling, Lipscomb, Little, Mitchell, Owens, and Smith (J) - 7

Abstaining:

Senators:

Bailey and Ghee

- 2

POINT OF PERSONAL PRIVILEGE

Senator Smith (J) requested that the Journal show that he inadvertently voted "Aye" on the adoption of the BIR, for the Bill, SB 24, but intended to vote "Nay."

BUDGET ISOLATION RESOLUTION

Senator Lindsey, B.I.R., SB 110, adopted.

Yeas 25 Nays 1

Yeas:

Senators:

Bedsole, Bennett, Bolling, Denton, Dial, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuit, Sanders, Smith (J), Waggoner, Wilson, and Windom

-25

Nay: Senator Amari

- 1

BILLS ON THIRD READING RESUMED**THE BILL:**

S. 110. To provide for legislative security personnel and provide for their powers and duties.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 29 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Corbett, deGraffenried, Denton, Dial, Figures, Floyd, Foshee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuit, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

-29

Nays:

- 0

REGULAR SESSION
8th Day

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RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 24. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bills in the order named shall be the paramount and continuing order of business taking precedence over all other matters upon reaching bills on third reading for the eighth legislative day of the 1992 Regular Session only:

	Page
S. 80	13
Alabama Farm Bureau Federation, name changed to Alabama Farmers Federation, Secs. 2-3-24, 2-19-130, 2-26-71, 2-27-6, 2-27-30, 9-8A-3, 41-9-243 am'd.	
S. 2	8
Legislature, sessions date and subject matter auth. to be addressed, consti. amend	
S. 4	9
Budgets, Gov. req. to submit to legislature prior to each session, Sec. 41-19-7 am'd.	
S. 59	32
Teachers, appointing of, alt. method provided, Sec. 16-13-52 am'd.	
S. 95	31
Theft of property offenses, cert., civil restitution provided	
S. 191	43
Child labor, health and safety reg., conform fed. law, Secs. 25-8-1 to 25-8-31 repealed	
S. 11	27
Probation violation hearings, ct. auth. to maintain, amend or revoke probation or suspension of execution of sentence or may modify original imprisonment period, Sec. 15-22-54 am'd.	
S. 130	7
Commission on Uniform State Laws, existence continued,	

membership incr., payment of expenses and dues further provided, Secs. 41-9-370, 41-9-371, 41-9-372, 41-9-373, 41-9-374 am'd.

S. 74 14
Corrections institution finance authority, auth. to issue add'l. bonds for purpose of constructing facilities, Sec. 14-2-12 am'd.

S. 30 27
Alcoholic beverage control bd., agents and officers to enforce the provisions of the Ala. Uniform Controlled Substance Act, Sec. 20-2-90 am'd.

S. 246 22
Municipalities, issuing summons and complaints for misdemeanors and violations further provided, Sec. 11-45-9.1 am'd.

S. 70 28
Motor vehicles, loads covered and secured so as to not come loose, detached or a hazard, exemptions, Sec. 32-5-76 am'd.

On motion of Senator Preuitt, the Resolution was adopted by the Senate.

SPECIAL ORDER BILLS ON THIRD READING RESUMED

The Senate proceeded to consideration of the special, paramount, and continuing order of business for today, the first of which was the Bill:

S. 80. To amend Sections 2-3-24, 2-19-130, 2-26-71, 2-27-6, 2-27-30, 9-8A-3 and 41-9-243, Code of Alabama 1975, relating to the membership of certain committees, organizations and commissions acting in connection with farmers and agriculture, so as to reflect the change in name of Alabama Farm Bureau Federation to Alabama Farmers Federation; and to ratify and confirm all actions taken under the authority of said sections of the Code of Alabama 1975 by Alabama Farmers Federation or its officers, as the successor to Alabama Farm Bureau Federation.

and pending Corbett Substitute No. 2 for the Corbett Substitute, for the Bill, SB 80, which said substitutes are set out in the Journal of the Senate for the Sixth Legislative Day.

REGULAR SESSION
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ADJOURNMENT

At 5:55 P.M., on motion of Senator Owens, pending further consideration of the Bill, SB 80, the Senate adjourned until Wednesday, February 26, 1992, at 2 o'clock P.M.

NINTH LEGISLATIVE DAY
WEDNESDAY, FEBRUARY 26, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by the Reverend J. B. Vincent, Pastor, Canaan Missionary Baptist Church, Jasper, Alabama.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Emily Martin, Jefferson Davis High School, Montgomery, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Corbett, deGraffenried, Denton, Dial, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, and Wilson

-30

**REPORT OF COMMITTEE
ON RULES ON
REVISION OF THE JOURNAL**

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Eighth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator deGraffenried, leave of absence was granted Senators Campbell, Dixon, Ellis, Figures, and Windom for today.

MOTION TO ADJOURN

Senator deGraffenried moved that when the Senate adjourns today, it adjourn to meet again on Thursday, February 27, 1992, at 10 o'clock A.M., which motion was adopted.

BILL RE-REFERRED

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the Bill, SB 121, and ordered same returned to the Senate with the recommendation that it be re-referred to another Committee.

And the President and Presiding Officer of the Senate ordered said Bill, SB 121, re-referred to the Standing Committee on Commerce, Transportation, and Utilities.

NOTICE IN WRITING

Senator Dial offered the following Notice in Writing, to-wit:

NOTICE IN WRITING

Notice is hereby given that on the next legislative day a motion will be made to amend the Senate Rules as follows:

Amend Rule 48 by deleting therefrom Rule 48 (b) in its entirety.

Which was read and ordered filed with the Secretary.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 25. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bills in the order named shall be the paramount and continuing order of business taking precedence over all other matters for the ninth legislative day of the 1992 Regular Session only:

	Page
S. 2 Legislature, sessions date and subject matter auth. to be addressed, consti. amend.	8
S. 4 Budgets, Gov. req. to submit to legislature prior to each session, Sec. 41-19-7 am'd.	9
S. 59 Teachers, appointing of, alt. method provided, Sec. 16-13-52 am'd.	29
S. 95 Theft of property offenses, cert., civil restitution provided	28
S. 191 Child labor, health and safety reg., conform fed. law, Secs. 25-8-1 to 25-8-31 repealed	40
S. 11 Probation violation hearings, ct. auth. to maintain, amend or revoke probation or suspension of execution of sentence or may modify original imprisonment period, Sec. 15-22-54 am'd.	25
S. 130 Commission on Uniform State Laws, existence continued, membership incr., payment of expenses and dues further provided, Secs. 41-9-370, 41-9-371, 41-9-372, 41-9-373, 41-9-374 am'd.	7
S. 74 Corrections institution finance authority, auth. to issue add'l.	13

bonds for purpose of constructing facilities, Sec.14-2-12 am'd.

S. 30 25
Alcoholic beverage control bd., agents and officers to enforce the provisions of the Ala. Uniform Controlled Substance Act, Sec. 20-2-90 am'd.

S. 246 20
Municipalities, issuing summons and complaints for misdemeanors and violations further provided, Sec. 11-45-9.1 am'd.

S. 70 26
Motor vehicles, loads covered and secured so as to not come loose, detached or a hazard, exemptions, Sec. 32-5-76 am'd.

On motion of Senator Preuitt, the Resolution was adopted by the Senate.

UNFINISHED BUSINESS BILLS ON THIRD READING

The Senate proceeded to consideration of the Unfinished Business for today, which was the Bill:

S. 80. To amend Sections 2-3-24, 2-19-130, 2-26-71, 2-27-6, 2-27-30, 9-8A-3 and 41-9-243, Code of Alabama 1975, relating to the membership of certain committees, organizations and commissions acting in connection with farmers and agriculture, so as to reflect the change in name of Alabama Farm Bureau Federation to Alabama Farmers Federation; and to ratify and confirm all actions taken under the authority of said sections of the Code of Alabama 1975 by Alabama Farmers Federation or its officers, as the successor to Alabama Farm Bureau Federation.

and pending Corbett substitute No. 2 for the Corbett substitute for the Bill, which said substitutes are set out in the Journal of the Senate for the Sixth Legislative Day.

On motion of Senator Owens said Corbett substitute No. 2 was laid on the table.

On motion of Senator Corbett said Corbett substitute was laid on the table.

And said Bill, SB 80, was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 21 Nays 2

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Foshee, Ghee, Hale, Horn, Langford, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuitt, and Waggoner -21

Nays:

Senators:

Corbett and Parsons

- 2

MESSAGE FROM THE HOUSE

Mr. President Pro Tem:

The Speaker of the House having signed the following House Joint Resolution, your signature thereto is requested.

HJR 29. CREATING AN INTERNATIONAL AIRPORT PERMANENT LEGISLATIVE OVERSIGHT COMMITTEE.

GREG PAPPAS,
Clerk.

SIGNING OF RESOLUTIONS

The President Pro Tempore of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolution, the title of which is set out in the foregoing Message from the House.

REPORTS OF COMMITTEES

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Corbett (With Substitute):

S. 35. Relating to the Alabama Sunset Law; to continue the

existence and functioning of the Alabama Real Estate Commission with certain modifications; to amend Sections 34-27-2, 34-27-7, 34-27-8, 34-27-31, 34-27-32, 34-27-33, 34-27-34, 34-27-35, and 34-27-36, Code of Alabama 1975.

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Corbett:

S. 36. Relating to the Alabama Sunset Law; to continue the existence and functioning of the State Pilotage Commission.

By Senator Corbett:

S. 37. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Examiners of Mine Personnel.

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Corbett (With Substitute):

S. 38. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Social Work Examiners with certain modifications; to amend Sections 34-30-4, 34-30-50, and 34-30-52, Code of Alabama 1975.

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Corbett:

S. 39. Relating to the Alabama Sunset Law; to terminate the existence and functioning of the Examining Board for Professional Entomologists, Plant Pathologists, Horticulturists, Floriculturists, and Tree Surgeons; to transfer the duties of the Board to the Commissioner

of Agriculture and Industries, and to amend Sections 2-28-1 to 2-28-5, inclusive, and 2-28-8 of the Code of Alabama 1975.

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, with substitute, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Corbett (With Substitute):

S. 40. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Liquefied Petroleum Gas Board with certain modifications; and to amend Sections 9-17-101, 9-17-104, 9-17-105, and 9-17-107, Code of Alabama 1975.

By Senator Corbett (With Substitute):

S. 41. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Telecommunications Division of the Department of Finance with certain modifications; to amend Section 41-4-284, Code of Alabama 1975, to require the destruction of all telephone records six months following the payment of the billing for the telephone usage.

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Corbett:

S. 42. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Public Service Commission.

By Senator Corbett:

S. 43. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Public Accountancy with certain modifications; to amend Sections 34-1-4, 34-1-11, and 34-1-12, Code of Alabama 1975.

By Senator Corbett:

S. 44. Relating to the Alabama Sunset Law; to continue the

existence and functioning of the Alabama Securities Commission with certain modifications; to amend Sections 8-6-53, 8-6-110, 8-6-111, 8-6-113, 8-6-115, 8-6-116, 8-6-118, and 8-6-119, Code of Alabama 1975.

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Corbett (With Substitute):

S. 45. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Heating and Air Conditioning Contractors with certain modifications; to amend Sections 34-31-18, 34-31-21, 34-31-26, 34-31-29, and 34-31-32, Code of Alabama 1975.

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Corbett:

S. 46. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Examiners in Psychology with certain modifications; to amend Section 34-26-21, Code of Alabama 1975.

By Senator Corbett:

S. 47. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Auctioneers with certain modifications; to amend Sections 34-4-21, 34-4-29, and 34-4-50, Code of Alabama 1975.

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Corbett (With Substitute):

S. 48. Relating to the Alabama Sunset Law; to terminate the

existence and functioning of the Alcoholic Beverage Control Board, effective October 1, 1993; to require the board to submit a plan to the Alabama Sunset Committee 30 days prior to the 1993 regular legislative session to remove the board from the wholesale and retail sale of alcoholic beverages in Alabama; and to authorize a fee for denatured alcohol manufacturers.

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Corbett:

S. 49. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Department of Insurance with certain modifications; to amend Sections 27-4-2, 27-7-7, 27-7-11, 27-7-18, 27-7-19, 27-7-23, 27-8-7, 27-8-15 and 27-8-16, Code of Alabama 1975.

By Senator Corbett:

S. 50. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Real Estate Appraisers Board with certain modifications; to amend Sections 34-27A-13, 34-27A-15, and 34-27A-20, Code of Alabama 1975.

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Corbett (With Substitute):

S. 51. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Funeral Service with certain modifications; to amend Sections 34-13-20, 34-13-26, 34-13-53, 34-13-56, and 34-13-111, Code of Alabama 1975.

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Corbett:

S. 52. Relating to the Alabama Sunset Law; to continue the

existence and functioning of the Alabama Board of Cosmetology with certain modifications; to amend Sections 34-7-19 and 34-7-21, Code of Alabama 1975.

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, with substitute, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Corbett (With Substitute):

S. 53. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Indian Affairs Commission with certain modifications; to amend Sections 41-9-708, 41-9-712, 41-9-713, 41-9-715, and 41-9-716, Code of Alabama 1975.

By Senator Corbett (With Substitute):

S. 100. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Plumbers and Gas Fitters Examining Board with certain modifications; to amend Sections 34-37-6, 34-37-8, 34-37-9, 34-37-12, and 34-37-15, Code of Alabama 1975, so as to provide minimum times for holding a lower classification before being examined for certification as a journeyman plumber, master plumber, or master pipe fitter; extend the time period for certification without an examination (grandfather clause); require the board to adopt a program of continuing education by October 1, 1994; require the board to adopt a late renewal penalty and levy administrative fines; and permit property owners to perform plumbing work on their own property.

By Senator Foshee (With Substitute):

S. 293. To require certain persons or entities to obtain a certification from the State Department of Public Health before conducting utilization reviews for covered medical insurance services.

Senator Corbett, Chairperson of the Standing Committee on Economic Affairs, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Bennett:

S. 308. To amend Section 9-14-29, Code of Alabama 1975,

relating to the applicability of the provisions of Article 2 of Chapter 14 of Title 9 of the Code of Alabama 1975, so as to add an exemption for concession operations receiving gross receipts of \$100,000.00 or less annually.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Little:

S. 6. To provide that any member of the employees' retirement system of Alabama, who, not more than one year prior to becoming a member of the said system, was a member of the judicial retirement fund, may elect to transfer his creditable service and accumulated contributions from the judicial retirement fund to the employees' retirement system.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senator Langford (With Amendment):

S. 7. To amend Section 36-27-49.3 of the Code of Alabama 1975, as amended, relating to the purchase of military service for creditable service in the employees' or teachers' retirement system who have met minimum vesting requirements, so as to add members of the judicial retirement system.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Little:

S. 13. Increasing benefits provided under the Peace Officers' Annuity and Benefit Fund by amending Section 36-21-70 of the Code of Alabama 1975, retroactive to November 1, 1991.

By Senator Mitchell:

S. 116. To make supplemental appropriations from the Alabama Special Educational Trust Fund to the Butler County Board of Education and the Dale County Board of Education for the fiscal year ending September 30, 1992, for repairs to any school damaged by windstorm or fire in the counties.

By Senator Horn:

S. 229. To make a supplemental appropriation to the Department of Finance - Telephone Revolving Fund in the amount of \$3,200,000 from the Alabama Special Educational Trust Fund and \$1,300,000 from the State General Fund for the fiscal year ending September 30, 1992.

By Senator Mitchell:

S. 240. To amend Section 29-6-4 of the Code of Alabama 1975, to provide further for the travel allowance of members of the Legislative Council.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senator Bedsole (With Amendment):

S. 282. To establish the Alabama State Capitol Historic Preservation Trust Fund.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senators Bedsole, Dixon, and Parsons:

S. 254. To amend Sections 15-23-3, 15-23-4, and 15-23-17, Code of Alabama 1975, relating to the Crime Victims Compensation Commission; to change the name of the Commission to the Crime Vic-

tims Commission; to increase the per diem of commission members; and to further provide for assessments.

By Senator Bennett:

S. 296. To make a supplemental appropriation of \$675,000 from the Alcohol and Drug Abuse Court Referral Officer Trust Fund to the Mandatory Drug Treatment Program for the fiscal year ending September 30, 1992.

By Senator Bedsole:

S. 299. To allow any active and contributing member of the Employees' or Teachers' Retirement System who has been an active member of the system for six consecutive years or more to purchase up to a certain amount of credit for active military service in his or her retirement system.

By Senator Horn:

S. 300. Relating to the Teachers' Retirement System; reopening the system for purchase of certain service credit in the system by certain active members of the system; providing for the manner of payment of the cost of the prior service credit; providing for the expiration of the reopening period; and providing for a delayed effective date.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senator Horn (With Amendment):

S. 301. To amend Section 36-27-49.3 of the Code of Alabama 1975, to provide for purchase of military service credit in the judicial retirement fund.

Senator Horn, Chairperson of the Standing Committee on Finance and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Floyd:

S. 306. Reopening the Employees' Retirement System for pur-

chase of prior service credit by certain officers and employees of the City of Gadsden that are active and contributing members of the system on a certain date; and providing for payment of the cost of the prior service credit.

Senator Parsons, Chairperson of the Standing Committee on Judiciary/Civil, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Ghee:

S. 27. To amend Section 16-52-12 of the Code of Alabama 1975, as amended, relating to the powers of law enforcement officers on the campus of Jacksonville State University and criminal procedure for certain offenses committed on the grounds and in buildings of the university, so as to allow process through the nearest municipal as well as district court.

Senator Parsons, Chairperson of the Standing Committee on Judiciary/Civil, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Ghee (With Substitute):

S. 28. Relating generally to crimes involving child abuse; to amend section 26-15-3, Code of Alabama 1975, relating to acts of abuse by a responsible person upon a child under the age of 18 years, so as to define further such acts and to prescribe a felony penalty and a misdemeanor penalty for such defined prohibited acts; and to provide for the new offense of sexual torture, to define the offense, and to provide a felony punishment for such offense.

Senator Parsons, Chairperson of the Standing Committee on Judiciary/Civil, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senator Bailey (With Amendment):

S. 86. To amend Section 25-4-10, Code of Alabama 1975,

which defines the term "employment" for unemployment compensation purposes, to clarify the language exempting service in the employ of religious organizations.

Senator Parsons, Chairperson of the Standing Committee on Judiciary/Civil, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Owens:

S. 256. Relating to the suspension of the license or permit to drive of certain people who have an alcohol concentration in the blood or breath at a level beyond the defined conditions for safe driving.

By Senator Smith (J):

S. 307. To provide further for the subsistence allowance of law enforcement officers to include officers with the Department of Corrections and to amend Section 36-21-2, Code of Alabama 1975.

Senator Wilson, Chairperson of the Standing Committee on Energy and Natural Resources, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Bolling:

S. 106. To amend Section 11-50-393 of the Code of Alabama 1975, relating to fees for members and the chair of boards of directors of gas districts.

By Senators Amari, Parsons, Wilson, and Waggoner:

S. 234. Revising the application of the Abandoned Mine Reclamation Act by amending Sections 9-16-121 and 9-16-124 of the Code of Alabama 1975; and providing for a delayed effective date.

Senator Bedsole, Chairperson of the Standing Committee on Agriculture, Conservation, and Forestry, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Bedsole:

S. 281. To amend Section 9-12-113, Code of Alabama 1975, relating to the license for saltwater commercial hook and line fishing and saltwater net or seine fishing, so as to delete certain language in the definition of "nonresident"; to specifically provide that the licenses provided for in this section shall be issued on an individual basis only; and to provide for the confiscation, holding, and forfeiture of boats, motors, and fishing gear of persons fishing nets and seines illegally.

By Senators Smith (J) and Bedsole:

S. 305. To appropriate from the general fund of the state treasury the sum of \$1,000,000.00 for the fiscal year ending September 30, 1992, to the Department of Agriculture and Industries Agricultural Development Services Program, which sum shall be allocated to the Boll Weevil Eradication Foundation for use in boll weevil eradication; to provide that such appropriation shall be supplemental.

Senator Hilliard, Chairperson of the Standing Committee on Commerce, Transportation, and Utilities, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Bedsole:

S. 211. To amend Sections 11-98-1, 11-98-2, 11-98-4, 11-98-5, and 11-98-6 of the Code of Alabama 1975, relating to emergency telephone service and communication districts; to provide further for the service areas, the structure and powers of the board of commissioners, and the type of emergency service.

By Senator Foshee:

S. 91. Relating to motor vehicle license tags; to provide for a front license tag for certain motor vehicles; to provide an additional fee to cover the costs of production and issuance of the additional license tag; and for this purpose amending Section 32-6-51 of the Code of Alabama 1975.

By Senator Foshee:

S. 277. To propose an amendment to Article I, Section 14 of the Constitution of Alabama of 1901 so as to waive the defense of

sovereign immunity for claims based on breach of a written contract.

The above Bill was read a second time at length as required by the Constitution.

By Senator Foshee:

S. 279. To require that the Department of Examiners of Public Accounts audit the books, records, and accounts of the Department of Public Safety on an annual basis to determine if the department has utilized the funds and fees appropriated to it in the manner required by Section 40-12-274, Code of Alabama 1975, and Act No. 91-252, H. 556, 1991 Regular Session.

By Senator Bennett:

S. 294. To amend Sections 22-30A-1 to 22-30A-5 and 22-30A-7 to 22-30A-10, inclusive, Code of Alabama 1975, relating to the Alabama Hazardous Substance Cleanup Fund to provide that the fund be used to investigate potential hazardous substance sites and to manage and remove materials and to provide that the liability of liable parties under this act is joint and several.

Senator Hilliard, Chairperson of the Standing Committee on Commerce, Transportation, and Utilities, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Hilliard (With Substitute):

S. 222. Relating to the Alabama Public Service Commission; amending Sections 37-3-10, 37-3-11, 37-3-13, 37-3-15, 37-3-17, 37-3-21 and 37-3-22 of the Code of Alabama 1975, relating to motor vehicle carriers, so as to provide further for the regulation of such carriers and repealing Section 37-3-14 of the Code of Alabama 1975, which relates to the dual operations by motor vehicle carriers.

Senator Owens, Chairperson of the Standing Committee on Small Business, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Denton (With Substitute):

S. 270. To amend Sections 39-1-1, 39-2-2, 39-2-3, 39-2-5, 39-

2-9 and 39-2-12, Code of Alabama 1975, relating to public contracts, so as to increase the amount of contracts for which bonds are required and to allow certain security to be used in lieu of a bond for contracts under \$20,000.00; to increase the bid amount requiring formal advertising; to eliminate the \$5.00 proposal fee and combine proposal, plan, and specification fee; to increase the maximum amount for bid bonds; to extend the periods of time within which bids must be returned; to extend the period of time allowed for approval of the bond and execution of the contract; and to allow payment for materials suitably stored off the job site.

Senator Owens, Chairperson of the Standing Committee on Small Business, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Denton:

S. 303. Providing for the permitting and regulation of persons, firms, associations and corporations engaged in the alarm systems business in this state under the regulatory authority of the state fire marshal; authorizing the state fire marshal to prescribe fees for certain permits and identification cards related to such business; prescribing penalties for enforcement and providing procedures for the administration of this act.

Senator Owens, Chairperson of the Standing Committee on Small Business, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Senator Owens (With Substitute):

S. 280. To amend Section 6-11-27 of the Code of Alabama 1975, relating to the liability of a principal, employer, or other master for the certain acts or omissions of an agent, employee, or servant to further provide for certain circumstances where the principal, employer, or master would not be liable for wantonness of an agent, employee, or servant; and to provide a procedure for notice and settlement of claims against a principal, employer, or servant prior to bringing a civil action for punitive damages under certain circumstances.

Senator Ghee, Chairperson of the Standing Committee on Constitution and Elections, reported that said committee, in session, had acted

on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Ghee:

S. 337. To provide for the "Sore Losers Prevention Act" and to amend Section 17-7-1 of the Code of Alabama 1975, to extend the time of qualification of candidates for public office for filing petitions for ballot access for a general election.

By Senator Ghee:

S. 334. To amend Section 17-8-2 of the Code of Alabama 1975, to require withdrawals from an election by candidates 50 or more days before that election.

By Senator Ghee:

S. 335. To amend Section 17-10-3 of the Code of Alabama 1975, to provide for absentee voting, to provide for a special state write-in absentee ballot, and to provide for an oath for military personnel and dependents.

By Senator Ghee:

S. 336. To amend Section 21-4-22 of the Code of Alabama 1975, to require that certain guidelines to assure accessibility of registration and polling places for handicapped and elderly individuals apply at all elections.

By Senator Ghee:

S. 338. To amend Section 17-6-8 of the Code of Alabama 1975, to provide for poll watchers in referendum elections.

By Senator Ghee:

S. 339. To amend Section 17-6-13 of the Code of Alabama 1975, to provide for an increase in compensation for returning officers, inspectors, and clerks.

By Senator Ghee:

S. 340. To amend Section 17-4-153 of the Code of Alabama

1975, relating to the mileage allowance of members of boards of registrars.

By Senator Ghee:

S. 341. To amend Section 17-8-29 of the Code of Alabama 1975, to provide further for the casting of ballots by electors and assistance to the electors.

By Senator Ghee:

S. 342. To amend Section 17-8-25 of the Code of Alabama 1975, to provide for the number of paper ballots at each voting place.

By Senator Ghee:

S. 343. To amend Section 17-19-7 of the Code of Alabama 1975, to provide for the electoral meeting for electors of the President and Vice-President of the United States.

Senator Barron, Chairperson of the Standing Select Committee on Fiscal Responsibility, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Hale:

S. 310. To amend Section 40-1-47, Code of Alabama 1975, relating to the investment of funds by certain county officials to include tax assessors.

Senator Preuitt, Chairperson of the Standing Committee on Rules reported that the following Bills have been placed on the Consent Calendar for today, to-wit:

By Senator Foshee:

S. 26. Relating to insurance rates approved for workmen's compensation insurance carriers; to provide further for those rates.

By Senator Denton:

S. 61. To amend Section 11-6-23, Code of Alabama 1975,

relating to the state Highway Department's participation in the salary of county engineer trainees.

By Senator Bennett:

S. 23. Creating the Impaired Drivers Trust Fund in the state treasury to provide rehabilitative services to residents of the state with certain types of injuries.

By Senator Corbett:

S. 93. To provide further for a certain definition relating to affirmative action programs.

By Senator Corbett:

S. 114. To provide for a pay scale for county chief appraisers based on population of the counties.

By Senator Windom:

S. 194. Relating to investment of state funds; to amend Section 41-14-30, Code of Alabama 1975, as amended, which sets forth the authority of the state treasurer to deposit funds in state depositories and when funds may be invested in obligations of the United States or its agencies, so as to change the limitation on investment in obligations of the United States, its agencies and instrumentalities to twenty percent of total state moneys, to delete the requirement that investment in such obligations be in maturities of one year or less, to broaden the United States agencies whose obligations may be purchased to all agencies and instrumentalities of the United States, and to money market funds which invest solely in authorized securities, and to set aside from the earnings on such obligations two and one-half percent (2.5%) for payment of administrative expenses of the state treasurer; to provide for severability of the provisions of this act; to provide for the repeal or amendment of conflicting laws; and to provide for an effective date.

Senator Preuit, Chairperson of the Standing Committee on Rules reported that the following Bills have been returned to the end of the Regular Calendar for today, to-wit:

By Senator Hilliard:

S. 117. To define and provide for the establishment of community development districts; and to prescribe the method by which

alcoholic beverages may be lawfully sold within such districts.

By Senator Corbett:

S. 84. To provide for the payment to owners of real property the value of which has been adversely affected by land use regulations.

RESOLUTION

Senator Parsons offered the following Senate Joint Resolution, to-wit:

SJR 26. NAMING "THE GOVERNOR GUY HUNT PARKWAY."

WHEREAS, the recently completed U. S. 80 extension, connecting U. S. 31 and Interstate 65, was officially and ceremoniously opened on January 25, 1992; and

WHEREAS, at a cost of \$17 million, this 1.37-mile stretch of new roadway is considered money well spent, in that it provides a more scenic and faster route from the Capital City to nearby Dannelly Field, Montgomery's municipal airport and, coincidentally, the homebase for our state's impressive fleet of aircraft; and

WHEREAS, this straight and narrow path to the "friendly skies," and points beyond, is truly a godsend to the frequent flyer, and is a special blessing to passengers, and/or luggage, traveling on official state business; and

WHEREAS, Governor Guy Hunt, who commutes by air from Montgomery to Cullman, and to other more distant points when "called," has perhaps been one of our state's most frequent users of the old route to Dannelly Field, and it is deemed most fitting that the new U. S. 80 connector be named in his honor, as a tribute to his fly-by-night-and-day administration, and as a memorial of more permanency than state aircraft logs; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby name and designate the new U. S. Highway 80 extension, linking U. S. 31 and Interstate Highway 65, south of Montgomery, as "The Governor Guy Hunt Parkway," and do further authorize the proper officials to erect and maintain appropriately located signs and markers, reflecting this action of the Legislature.

Which was read and referred to the Standing Committee on Rules.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 24. Relating to Mobile County; to amend Act No. 86-545, S. 655, 1986 Regular Session, which creates a County Racing Commission, to delete the residency requirements for certain applicants, owners, and employees; to alter the permissible number of racing days; to authorize a licensee to receive and transmit certain racing broadcasts and to provide that wagering on broadcasts shall be subject to the same commissions as live racing; to further provide for the tax on the contributions to all pari-mutuel pools, the licensees' amount of commission, and the distribution of amounts due on outstanding unredeemed mutuel tickets; to require certain funds be used for capital improvements; to provide further for the distribution of monies received under this act; and to regulate the expenditures of the commission.

JIM PREUITT,
Chairperson.

MOTION IN WRITING

Senator Bailey requested and received permission to suspend the Rules in order to offer the following Motion in Writing, to-wit:

I move that the Bill, SB 260, on page 33 of the 9th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 260, referred to the Standing Committee on Rules for placement on the Consent Calendar.

RESOLUTION

Senator Waggoner offered the following Senate Joint Resolution, to-wit:

SJR 27. CONGRATULATING THE VESTAVIA HILLS

**CHAMBER OF COMMERCE ON THE OCCASION OF THEIR
TENTH ANNIVERSARY.**

WHEREAS, it is with a sense of great pride that the Legislature of Alabama notes that on September 10, 1991, the Vestavia Hills Chamber of Commerce observed its tenth anniversary of organization celebration at which past presidents C. Pat Reynolds, Jim Herrin, Cleve Earnest, Lee J. Pilleteri, I. Patricia Barr and Glenn Peacock were recognized for their leadership; and

WHEREAS, the Vestavia Hills Chamber of Commerce grew from the dream of the late Tom Humphreys, who was the chairman of the organizing committee and president for the first two years of the organization, and the dedication of Mr. Humphreys with Jim Herrin, Emil Hess and Larry Wright and a small group of community leaders, for the purpose of communication and harmony with the Merchants Association, into a valued community asset in 10 short years, since its charter on October 12, 1981, and has led the whole community into friendly interaction in Fourth of July celebrations and picnics since 1982, the "I LOVE AMERICA DAY" celebrations, the "Citizen of the Year Program," and the Mayor's Prayer Breakfast during the "Dogwood Festival"; and in 1986 Vestavia Hills was honored as Alabama's only Bicentennial Commission; and

WHEREAS, the Vestavia Hills Chamber of Commerce has exhibited strong leadership in business recruitment and hosts an "After Hours Program" and it publishes a monthly news bulletin; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,
BOTH HOUSES THEREOF CONCURRING,** That in recognition of outstanding public service, community and state leadership, we hereby most highly commend the Vestavia Hills Chamber of Commerce on the observance of its tenth anniversary of charter, and do further hereby direct that they receive a copy of this resolution of honor and esteem.

On motion of Senator Waggoner, the Rules were suspended and the Resolution was adopted by the Senate.

MOTIONS IN WRITING

Senator Bedsole requested and received permission to suspend the Rules in order to offer the following Motion in Writing, to-wit:

I move that the Bill, SB 284, on page 49 of the 9th Day Calendar,

be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 284, referred to the Standing Committee on Rules for placement on the Consent Calendar.

Senator Dial requested and received permission to suspend the Rules in order to offered the following Motion in Writing, to-wit:

I move that the Bill, SB 31, on page 47 of the 9th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 31, referred to the Standing Committee on Rules for placement on the Consent Calendar.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senator Ghee:

S. 349. To amend Sections 22-23-32, 22-23-37, 22-23-40, 22-23-41, 22-23-44, 22-23-47, and 22-23-49 of the Code of Alabama 1975, relating to water suppliers and safe drinking water, to delete certain department consulting requirements; to require water suppliers to notify customers in certain instances; to exempt from certain permitting requirements ground water investigations, exploratory drillings, test wells, or pilot plant studies; to provide for the permitting process; to prohibit the introduction of certain substances and matters into a water supply and to prescribe criminal penalties for violations of the prohibition; and to permit the department to establish certain laboratory certification procedures.

Committee on Commerce,
Transportation, and Utilities

By Senator Ghee:

S. 350. To amend Sections 22-25-1, 22-25-2, 22-25-7, 22-25-9, 22-25-11, 22-25-12, 22-25-14, and 22-25-15, Code of Alabama 1975, relating to the regulation of water and wastewater sys-

tems and treatment plants; to permit the Department of Environmental Management to also regulate public wastewater collection systems; to provide for operator certification; and to relieve the appropriate district attorney of certain enforcement duties.

Committee on Energy and
Natural Resources

By Senator Bedsole:

S. 351. To amend Section 11-50-342 of the Code of Alabama 1975, relating to the membership of the board of water and sewer commissioners so as to provide further for an increase in said membership.

Committee on Governmental
Affairs/Local Government

By Senator Denton:

S. 352. To amend Section 16-51-6, Code of Alabama 1975, relating to the Board of Trustees of the University of North Alabama; to establish and implement personnel rules, policies, and practices for the university and authorizing the board of trustees to merge with another institution without seeking or obtaining legislative or administrative approval.

Committee on Governmental
Affairs/Local Government

By Senator Dial:

S. 353. Providing for transfer of service credit from the Judicial Retirement Fund to the Teachers' Retirement System.

Select Committee on
Fiscal Responsibility

By Senator Bedsole:

S. 354. Amending Section 34-27-2, Code of Alabama 1975, to provide further for real estate licensing requirements for certain persons.

Committee on Small Business

By Senator Horn:

S. 355. To amend Section 16-17-1, Code of Alabama 1975, which defines certain terms relating to educational building authorities, so as to include public nonprofit corporations promoting educational television within the definition of "educational institution" and to expand the definitions of "construct" and "ancillary improvements."

Committee on Finance
and Taxation

By Senator Horn:

S. 356. Relating to the City of Birmingham, in Jefferson County, Alabama; exempting the sale of tickets for any athletic event or contest held under the jurisdiction of the Alabama High School Athletic Association from all county and municipal taxes, fees, or assessments of any nature.

Committee on Finance
and Taxation

By Senator Bailey:

S. 357. Amending Sections 12-17-145 and 12-17-161, Code of Alabama 1975, to allow certain court clerks and registers to elect to participate in the supernumerary fund by a certain deadline.

Committee on Finance
and Taxation

By Senator Hilliard (With Notice and Proof):

S. 358. To provide members of the council or governing body of any Class 1 municipality with a certain additional expense allowance; to provide that the expense allowance provided under this act and the expense allowances provided under Section 11-43-7.1, Code of Alabama 1975, shall be eligible for certain treatment both as to the determination of retirement benefits and allowances, and to the withholding of required contributions for membership in any pension or retirement system trust fund in which the members may participate.

Committee on Finance
and Taxation

I hereby certify that the notice and proof is attached to the Bill, SB

358, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Sanders:

S. 359. To increase the number of trustees on the Board of Trustees of Selma University and provide for their appointment.

Committee on Education

By Senators Dial, Bailey, Amari, Hale, Lipscomb, and Barron:

S. 360. To amend Section 41-23-1, Code of Alabama 1975, to establish and specify the powers and duties of the Office of Water Resources as a division of the Department of Economic and Community Affairs; and to establish the Alabama Water Resources Commission and authorize the commission to promulgate rules and regulations for the Office of Water Resources.

Committee on Commerce,
Transportation, and Utilities

By Senator Bedsole:

S. 361. To amend Act No. 91-738, Section 2 B, Items 1, 2, 3, 5, 6 and 7, passed in the 1991 First Extraordinary Session which makes appropriations for the ordinary expenses of the executive, legislative and judicial agencies of the State for the fiscal year ending September 30, 1992, by reducing certain General Fund appropriations to the judicial agencies by five percent.

Committee on Finance
and Taxation

By Senator Hilliard:

S. 362. To propose an amendment to the Constitution of Alabama of 1901, to authorize the Legislature or any county or municipality in the state to levy an ad valorem tax of sufficient millage to produce revenue equal to that produced by all or any part of a sales or transaction tax during a certain twelve-month period upon the repeal or reduction of any sales or transaction tax in effect prior to the approval of the amendment; to authorize the adoption of such ad valorem tax on one

or more occasions during the period prior to October 1, 1996; to prohibit the re-enactment of any sales or transaction tax repealed or reduced hereunder by the Legislature or any taxing authority; to provide that any ad valorem tax enacted shall be in increments of 1/2 mill on each dollar of taxable property; to provide that any ad valorem tax must be pledged or earmarked in the same manner for same purpose or purposes for which the sales or transaction tax was pledged or earmarked or, if the sales or transaction tax was not pledged or earmarked the ad valorem tax may be earmarked for any public purposes or designated to the general fund of the levying authority; to authorize a county governing body to effect the repeal or reduction of a sales or transaction tax levied by legislative act, and collected only in such county; to preserve all rights and remedies of bondholders, mortgagees, or other security holders respecting the enforcement of an indenture, mortgage, or other security agreement containing a pledge of a sales or transaction repealed or reduced; to provide that the provisions of the amendment are severable.

Committee on Finance
and Taxation

The above Bill was read a first time at length as required by the Constitution.

By Senator Ghee:

S. 363. To provide that workmen's compensation insurance must be obtained by employers employing 10 or more employees and to amend Section 25-5-50, Code of Alabama 1975.

Committee on Rules

By Senators Mitchem and Barron:

S. 364. To provide that any person 14 years of age or older shall be tried as an adult if such person is charged with certain specified felonies; to further provide that in such case where the defendant was under the age of 18 years at the time of the crime, a hearing shall be conducted in the circuit court before a judge who regularly tries adult felony cases in order to determine whether the case shall be transferred to juvenile court; and to specify the time, applicable criteria, and burden of proof and persuasion and other matters relating to such hearing.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senators Mitchem and Hale:

S. 365. To amend Section 13A-5-40, Code of Alabama 1975, to include within the list of crimes punishable as capital offenses: murder when the victim is under fourteen years of age; murder in which the victim is killed while in a dwelling by a deadly weapon fired from outside that dwelling; murder in which the victim is killed while in a motor vehicle by a deadly weapon fired from outside that motor vehicle; and murder in which the victim is killed by a deadly weapon fired from a motor vehicle.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senators Mitchem and Barron:

S. 366. To define the crime of stalking and the crime of aggravated stalking; to define terms; and to prescribe the relationship between this act and other provisions of law when the same conduct is prescribed by them.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senators Dial, Bennett, Barron, Mitchem, and Hale:

S. 367. To provide for the environmental commemorative tag program; to provide for certain fees for environmental commemorative tags to be distributed to the Alabama Environmental Education Fund to be used for environmental education; for this purpose to amend Section 32-6-150 of the Code of Alabama 1975.

Committee on Industrial
Development and Expansion

By Senators Mitchem and Barron:

S. 368. To provide that any murder as defined in Section 13A-6-2(a)(1), Code of Alabama 1975, shall be a capital offense subject to punishment by life imprisonment without parole or to death; to specify the sentencing procedures applicable in such cases; and to specify lesser included offenses in such cases.

Committee on Judiciary/Criminal
Justice and Public Safety

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the following Senate Joint Resolutions and returns same herewith to the Senate:

SJR 10. COMMENDING MARIAN ACREE TUCKER FOR OUTSTANDING CONTRIBUTIONS AND SERVICE TO JUDSON COLLEGE.

Also:

SJR 11. MOURNING THE DEATH OF THE REVEREND JOSEPH C. ESPY, JR., OF ABBEVILLE, ALABAMA.

Also:

SJR 12. MOURNING THE DEATH OF RONALD E. ELLIOTT, SR., OF MONTGOMERY, ALABAMA.

GREG PAPPAS,
Clerk.

BUDGET ISOLATION RESOLUTION

Senator Foshee, B.I.R., SB 2, adopted.

Yeas 20 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, deGraffenried, Denton,
Floyd, Foshee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchem,
Owens, Parsons, Smith (J), Waggoner, and Wilson -20

Nays:

- 0

SPECIAL ORDER
BILLS ON THIRD READING

The Senate proceeded to consideration of the special, paramount, and continuing order of business for today, the first of which was the Bill:

S. 2. To propose a self-executing amendment to the Alabama

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Constitution of 1901, relative to setting the dates, times and length of an organizational, annual regular, annual budget and any special session of the Alabama Legislature; to provide for superseding Constitutional Amendment No. 339; to repeal Constitutional Amendment No. 448; and to provide for a constitutional election on the proposed amendment.

Senator Floyd offered the following amendment to the Bill, SB 2, to-wit:

AMENDMENT TO SB 2

Amend Senate Bill No. 2 Page 3 Line 19, as follows:

By striking the following "or any other legislation dealing with financial needs"

and by inserting in lieu therein:

or any other legislation dealing with emergency financial needs of the State"

Which was adopted.

Yeas 23 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, deGraffenried, Floyd, Foshee, Ghee, Hale, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (J), and Waggoner
-23

Nays:

- 0

Senator Hale offered the following amendment to the Bill, SB 2, as amended, to-wit:

AMENDMENT TO SB 2, AS AMENDED

Amend Senate Bill 2, as amended, on Page 2, Line 33 by deleting the word "February" and inserting in lieu thereof the word "March"

Further amend Senate Bill 2, as amended, on Page 2, Line 34 by deleting the word "January" and inserting in lieu thereof the word "February"

Which was adopted.

Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Floyd, Ghee, Hale, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, Smith (J), and Waggoner -21

Nays:

- 0

Senator Smith (J) offered the following amendment to the Bill, SB 2, as amended, to-wit:

AMENDMENT TO SB 2, AS AMENDED

Amend Senate Bill No. 2, as amended, Page 3 Line 4, as follows:

By striking the number "70" and by substituting in lieu thereof the number "60";

Also by striking the number "35" on line 13 and by substituting in lieu thereof the number "45"

Which was adopted.

Yeas 22 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, deGraffenried, Denton, Dial, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuit, Sanders, Smith (J), and Waggoner -22

Nays:

- 0

On motion of Senator Bailey, the Senate reconsidered the vote by which the Hale amendment was adopted.

On motion of Senator Bailey said amendment was laid on the table.

And said Bill, SB 2, as thus amended, was read a third time at length as required by the Constitution and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 22 Nays 2

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Corbett, deGraffenried,

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Denton, Dial, Floyd, Foshee, Ghee, Hale, Hilliard, Langford, Lindsey,
Little, Mitchell, Mitchem, Owens, Preuitt, and Smith (J) -22

Nays:

Senators:

Lipscomb and Sanders - 2

BUDGET ISOLATION RESOLUTION

Senator Foshee, B.I.R., SB 4, adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bolling, deGraffenried, Denton, Foshee, Ghee, Hale,
Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchem, Owens,
Preuitt, Sanders, and Smith (J) -18

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 4. To amend Section 41-19-7 of the Code of Alabama 1975, relating to the presentation of the proposed budget by the Governor.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, deGraffenried, Denton,
Foshee, Hale, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell,
Mitchem, Owens, Parsons, Preuitt, Sanders, and Smith (J) -21

Nays: - 0

PERMISSION GRANTED

Senator Little requested and received permission to suspend the Rules in order to receive the Message from the House relative to the Resolutions, HJR's 79 and 80.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Reps. Hooper, Clay, Cosby, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Collins, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Turnham, Venable, Walker, Warren, White, Williams, Willis, and Zoghby:

HJR 79. COMMENDING GREG CALHOUN FOR OUTSTANDING ACHIEVEMENT AND SERVICE.

Also:

By Reps. Turnham, Anderson, Barnes, Beasley, Biddle, Black (L), Black (M), Blakeney, Bowling, Box, Bryant, Bugg, Burke, Buskey (JE), Buskey (JL), Butler, Cagle, Campbell, Carns, Carothers, Carter, Clark (J), Clark (W), Clay, Collins, Cosby, Crow, Cullins, Curry, Dolbare, Drake, Escott-Russell, Flowers, Ford, Freeman, Fuller, Gaines, Gaston, Goodwin, Grayson, Gullatt, Hall, Hamilton, Hammett, Haney, Harper, Harvey, Hawkins, Haynes, Higginbotham, Hill, Hogan, Holladay, Holley, Holmes, Hooper, Johnson, Kennedy, Knight, Kvalheim, Laird, Layson, Letson, Lindsey, Mathis, McClain, McDaniel, McDowell, McKee, McMillan, Melton, Mikell, Millican, Morrow, Morton, Newman, Newton (C), Newton (D), Parker (P), Parker (T), Payne, Penry, Perdue, Petelos, Poole, Powell, Rich, Richardson, Rockhold, Rogers (F), Rogers (J), Sanderford, Sanderson, Smith (C), Smith (R), Spratt, Starkey, Thomas, Turner, Venable, Walker, Warren, White, Williams, Willis, and Zoghby:

HJR 80. COMMENDING JAMES E. MARTIN FOR DISTIN-

GUISHED SERVICE TO AUBURN UNIVERSITY.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Little, the Rules were suspended and the Resolutions, HJR's 79 and 80, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

MOTION IN WRITING

Senator Mitchell requested and received permission to suspend the Rules in order to offer the following Motion in Writing, to-wit:

I move that the Bill, SB 285, on page 50 of the 9th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 285, referred to the Standing Committee on Rules for placement on the Consent Calendar.

BUDGET ISOLATION RESOLUTION

Senator Smith (J), B.I.R., SB 59, adopted.

Yeas 20 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, deGraffenried, Denton, Foshee, Hale, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuit, Sanders, and Smith (J) -20

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 59. To amend Section 16-13-52, Code of Alabama 1975, to provide an alternative method for determining the number of teacher units for each public school.

was taken up.

Senator Smith (J) offered the following substitute for the Bill, SB 59, to-wit:

SUBSTITUTE FOR SB 59

**A BILL
TO BE ENTITLED
AN ACT**

To amend Sections 16-13-52 and 16-13-52.1, Code of Alabama 1975, to provide an alternative method for determining the number of current teacher units earned by a particular school system by authorizing the state superintendent to use the first month average daily attendance to determine the number of current teacher units and to further amend by deleting item (b) in its entirety.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 16-13-52, Code of Alabama 1975, is hereby amended to read as follows:

§16-13-52.

"(a) In determining the number of teacher units to be allowed a county or an independent city for the purpose of apportioning the minimum program fund, one teacher unit shall be allowed for each 28 pupils in average daily attendance, during the first four scholastic months of the preceding school year in all the public schools of the county, including schools in the independent cities therein; provided, that those systems which show an increase in average daily attendance during the first four scholastic months of the current year may be allowed one additional teacher unit for each 28 pupils in such increase in average daily attendance for such current year.

~~(b) Any teacher units which are lost as a result of a decrease in average daily attendance, shall be allocated for the funding of a kindergarten program, based on a formula developed by the state board of education, until such kindergarten program is properly funded. Properly funded is defined as a time (on a statewide basis) when one teacher unit or (supervised) teacher aide is funded for every 20 kindergarten students. Local school boards shall have the discretion to use such units for (supervised) teacher aides in the kindergarten program in lieu of additional certified teachers; provided, however, that any remaining funds saved by using teacher aides in lieu of certified teachers must be utilized in some aspect of the kindergarten program by said local school boards;~~

~~and further provided that, subject to the approval of the state superintendent of education, up to 25 percent of the units which would have been lost due to decreased average daily attendance may be used to fund a compulsory remedial summer school program, if and when such program is established by the legislature.~~

(e) (b) In the event of natural disaster, epidemic or other occurrence that may cause pupil average daily attendance during the first four scholastic months of the school year to be abnormal and below usual and customary levels, the affected school board may petition the state superintendent of education to seek his approval of the use of an alternate four month reporting period during the same scholastic year. The state superintendent of education shall be authorized to approve such petitions after proper examination of the facts and evidence presented.

(c) It is the intent of the legislature that local school systems experiencing extraordinary increases in attendance receive payment for additional current teacher units earned as early in the school year as possible. The state superintendent of education shall certify to the state budget officer the amount for additional current teacher units earned and shall adjust the local school system's regular allocation of state funds, and make requisition on the state comptroller accordingly, within thirty days of receipt of the first month attendance report."

Section 2. Section 16-13-52.1, Code of Alabama 1975, is hereby amended to read as follows:

§16-13-52.1.

"(a)(1) Notwithstanding any provision of law to the contrary and specifically notwithstanding section 16-13-52, in determining the number of teacher units for the purpose of apportioning the state minimum program and the state kindergarten program, one teacher unit shall be allowed for the specified number of pupils in average daily attendance in subdivision (2) of this subsection, during the first four scholastic months of the preceding school year in all the public schools of the counties, including schools in the independent cities therein; provided, that those systems which show an increase in average daily attendance during the first ~~four~~ scholastic months of the current year may be allowed one additional teacher unit for each specified number of pupils in subdivision (2) of this subsection in such increase in average daily attendance for such current year.

(2) Beginning in the 1988-1989 school year, one teacher unit shall be allowed for each 17 pupils in average daily attendance in each kinder-

garten classroom; during the 1989-1990 school year, one teacher unit shall be allowed for each 17 pupils in average daily attendance in each kindergarten and in one-half of all grade one academic classrooms; during the 1990-1991 school year, one teacher unit shall be allowed for each 17 pupils in average daily attendance in each kindergarten through grade one academic classroom; during the 1991-1992 school year, one teacher unit shall be allowed for each 17 pupils in average daily attendance in each kindergarten through grade one and in one-half of all grade 2 academic classrooms; during the 1992-1993 school year, one teacher unit shall be allowed for each 17 pupils in average daily attendance in each kindergarten through grade 2 academic classroom; during the 1993-1994 school year, one teacher unit shall be allowed for each 17 pupils in average daily attendance in each kindergarten through grade two and in one-half of all grade three academic classrooms; during the 1994-1995 school year, one teacher unit shall be allowed for each 17 pupils in average daily attendance in each kindergarten through grade three academic classroom; during the 1995-1996 school year, one teacher unit shall be allowed for each 17 pupils in average daily attendance in each kindergarten through grade three and in one-half of all grade four academic classrooms; during the 1996-1997 school year, one teacher unit shall be allowed for each 17 pupils in average daily attendance in each kindergarten through grade four academic classroom; during the 1997-1998 school year, one teacher unit shall be allowed for each 17 pupils in average daily attendance in each kindergarten through grade four and one teacher unit shall be allowed for each 24 pupils in average daily attendance in each grade five and grade six academic classroom; during the 1998-1999 school year, one teacher unit shall be allowed for each 17 pupils in average daily attendance in all kindergarten through grade four academic classrooms and one teacher unit shall be allowed for each 24 pupils in average daily attendance in all grade five through grade eight academic classrooms; and during the 1999-2000 school year one teacher unit shall be allowed for: (i) each 17 pupils in average daily attendance for all kindergarten through grade four academic classrooms, (ii) each 24 pupils in average daily attendance for all grade five through grade eight academic classrooms and (iii) each 26 pupils in average daily attendance for all grade nine through grade 12 academic classrooms. It is further provided that upon achieving and fully funding each ratio for respective grade levels kindergarten through four (K-4) that is provided for in this section, no academic classroom in said grade levels shall consist of more than 25 students per teacher.

(3) It is the intent of the legislature that local school systems experiencing extraordinary increases in attendance receive payment for additional current teacher units earned as early in the school year as possible. The state superintendent of education shall certify to the state

budget officer the amount for additional current teacher units earned and shall adjust the local school system's regular allocation of state funds, and make requisition on the state comptroller accordingly, within thirty days of receipt of the first month attendance report.

(b) It is further provided that the additional teacher units earned under the provisions of subsection (a) shall be allocated to each of the respective school systems for the employment of classroom teachers. No more than one in 15 teacher units earned under the provisions of subsection (a) shall be employed as support units. The county and city boards of education shall not reduce the number of teacher units employed from local funds as of August 12, 1987. Local school systems shall not receive other current expenses, capital outlay and other support costs for any units earned under this section unless the system employs the personnel earned pursuant to this section. Each local board of education shall submit to the state superintendent of education, along with the annual budget, a written assurance that the funds provided pursuant to this section shall be used in compliance with this section. Each local board of education shall submit to the state superintendent of education, along with the financial statement, a signed affidavit certifying that the units earned under this section were used for the employment of teacher and support units to reduce pupil-teacher ratios. The state department of education shall monitor all local school systems to determine compliance with this section. Failure of a local school system to comply during any given year shall result in the loss of the increase in state funds earned under this section during that particular year.

(c) In those years in which one-half of a grade level is affected in the reduction of the pupil teacher ratio pursuant to this section, the total number of new teacher units earned for that partial grade shall be allotted to each school system based on the proportion that each school system's average daily attendance bears to the total average daily attendance of all public school systems.

(d) Funding to reduce the pupil teacher ratio under subsection (a) shall be appropriated from the Alabama special educational trust fund annually. By the first legislative day of each regular session of the legislature, the legislative fiscal office shall make an estimate of the receipts to the Alabama special educational trust fund pursuant to section 29-5-7, as amended, and the executive budget office shall make an estimate of the receipts to the Alabama special educational trust fund pursuant to section 41-4-85, as amended. When it is confirmed by both the legislative fiscal office and the executive budget office that the new and continuing revenue into the Alabama special educational trust fund for the succeeding fiscal year is equal to or greater than \$37,500,000,

then the program under subsection (a) shall be implemented. If either estimate for any fiscal year is less than \$37,500,000, the average of the two estimates shall be determined and if that amount equals or exceeds \$37,500,000, the program shall be implemented. However, if the average of the two estimates is less than \$37,500,000, the program is automatically suspended for the succeeding fiscal year. However, in any year that a house and senate joint resolution is passed by each chamber and signed by the governor affirming that fiscal constraints prevent the implementation of this section the schedule for reducing the pupil teacher ratio may be temporarily suspended for one fiscal year. The schedule shall then resume in the following fiscal year beginning with the grade level scheduled during the period of suspension.

(e) Upon full implementation of subsection (a) of this section, subsection (a) of section 16-13-52 is hereby expressly repealed."

Section 3. The provisions of the act are severable. If any part of the act is declared invalid or unconstitutional such declaration shall not affect the part which remains.

Section 4. All laws or parts of the laws which conflict with this act are hereby repealed.

Section 5. This act shall become effective upon its passage and approval by the Governor or upon it otherwise becoming law.

Which was adopted.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, deGraffenried, Denton, Foshee, Hale, Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuit, Sanders, and Smith (J) -19

Nays:

- 0

And said Bill, SB 59, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 20 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, deGraffenried, Denton, Foshee, Hale,

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Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem,
Owens, Parsons, Preuitt, Sanders, and Smith (J) -20

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator deGraffenried, B.I.R., SB 95, adopted.

Yeas 20 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, deGraffenried, Denton, Foshee, Hale,
Hilliard, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem,
Owens, Parsons, Preuitt, Sanders, and Smith (J) -20

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 95. Authorizing the owner of goods for sale to bring a civil action to recover damages from any person who commits or attempts to commit a theft of the goods and specifying the damages therefor; and providing for a delayed effective date.

was taken up.

The Standing Committee on Judiciary/Criminal Justice and Public Safety reported the following amendment to the Bill, SB 95, to-wit:

AMENDMENT TO SB 95

Amend Senate Bill No. 95 Page 3 Line 4, as follows:

After the words: "minor under the age of"

delete the number "18" and substitute in lieu thereof "nineteen (19)"

On motion of Senator deGraffenried said amendment was laid on the table.

Senator deGraffenried then offered the following substitute for the Bill, SB 95, to-wit:

SUBSTITUTE FOR SB 95

A BILL
TO BE ENTITLED
AN ACT

Authorizing the owner of goods for sale to bring a civil action to recover damages from any person who commits or attempts to commit a theft of the goods and specifying the damages therefor; and providing for a delayed effective date.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The Legislature finds that shoplifting and employee theft have reached near epidemic proportions and that efforts to control these criminal offenses through traditional methods have proven unsuccessful and costly to both the general public and to business.

The existing criminal justice system is overcrowded and burdened thereby causing unreasonable delay. Continual use of the criminal justice system for shoplifting and employee theft offenses creates a further strain on an already overcrowded criminal docket, thereby requiring more tax revenue to pay for a continual expansion of the criminal justice system.

The continuous growth of shoplifting and employee theft cases in the face of traditional efforts to control these offenses represent added cost to retailers which, in turn, is passed on to the consumer in higher prices. Additionally, the merchandise lost to theft is not converted to profit in the form of sales for the retailer which results in millions of dollars in tax revenues lost.

Therefore, the Legislature deems that the utilization of an alternative form of deterrence to eliminate shoplifting and employee theft which avoids the stigma of a criminal record is more desirable than the present system.

Section 2. (a) An adult or emancipated minor who commits or attempts to commit a theft of property consisting of goods for sale on the premises of a merchant in violation of Sections 13A-8-3, 13A-8-4 and 13A-8-5, Code of Alabama 1975, shall be civilly liable to the merchant in an amount consisting of all of the following:

(1) The full retail value of the merchandise if not recovered in merchantable condition at its full retail price.

(2) Damages in the amount of \$200.

(3) Reasonable attorney's fees and court costs.

(b) Parents or legal guardians of an unemancipated minor under the age of 19 shall be liable in a civil action for the minor who commits or attempts to commit a theft of property consisting of goods for sale on the premises of a merchant in violation of Sections 13A-8-3, 13A-8-4 and 13A-8-5, Code of Alabama 1975, to the merchant in an amount consisting of all of the following:

(1) The full retail value of the merchandise if not recovered in merchantable condition at its full retail price.

(2) Damages in the amount of \$200.

(3) Reasonable attorney's fees and court costs.

(c) A customer who orders a meal in a restaurant or other eating establishment, receives at least a portion thereof, and then leaves without paying, is subject to liability under this section.

(d) Persons operating a certified foster home are not liable under this section for the acts of children not related to them by blood or marriage who are under their care.

Section 3. (a) A conviction or a plea of guilty to the criminal offense of theft of property as defined in Title 13A, chapter 8, Code of Alabama 1975, is not a prerequisite to the bringing of a civil suit, obtaining a judgment, or collecting that judgment under this act.

(b) The fact that a merchant may bring a civil action against an individual as provided in this act shall not limit the right of the merchant to demand, in writing as set out in Section 3(c) below, that a person who is liable for damages and penalties under this act remit the damages and penalties prior to the consideration of the commencement of any legal action.

(c) The demand letter must be prepared and include the following:

On (insert date), you were apprehended for taking possession of, without paying for, merchandise belonging to (name of retailer/merchant).

Under Alabama Statute, a retailer/merchant is granted a civil cause

of action against the person who intentionally deprives or intends to deprive a retailer/merchant of any merchandise without paying for it. The statute further provides that, separate from, and in addition to, any criminal action arising from your conduct, you may be held civilly liable for:

- (a) Cost of merchandise, if damaged;
- (b) Damages of \$200; and
- (c) Court costs and reasonable attorneys' fees.

This letter represents a demand from you for \$(amount) as a means of satisfying this civil matter.

We do not wish to file a civil action against you. However, if we do not receive payment within thirty (30) days from the date of this letter, we will make every effort to enforce our rights under this statute, which may include a civil court action.

Section 4. An action for recovery of damages and penalties under this act may be brought in any court of competent jurisdiction, including the small claims division of a district court where the person who committed the theft offense fails to make payment to the merchant of the amount specified in the demand within 30 days after the date of service of the written demand upon him or her, if the total damages do not exceed the jurisdictional limit of the small claims division.

Section 5. This act shall not be construed to prohibit or limit any other course of action which a merchant may have against a person who unlawfully takes merchandise from the merchant's premises.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 7. This act shall become effective on the first day of the third month next following its passage and approval by the Governor or its otherwise becoming a law.

ADJOURNMENT

At 5:35 P.M., on motion of Senator Sanders, in accordance with Motion heretofore adopted, and pending further consideration of the Bill, SB 95, the Senate adjourned until Thursday, February 27, 1992, at 10 o'clock A.M.

TENTH LEGISLATIVE DAY
THURSDAY, FEBRUARY 27, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by the Reverend Jiles Williams, Pastor, New Providence Baptist Church, Montgomery, Alabama.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Matt Tamasco, Mobile Christian, Mobile, Alabama.

ROLL CALL

Present:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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**REPORT OF COMMITTEE
ON RULES ON
REVISION OF THE JOURNAL**

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Ninth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator deGraffenried, leave of absence was granted Senators Amari, Dixon, Ellis, and Figures for today.

MOTION TO ADJOURN

Senator deGraffenried moved that when the Senate adjourns today, it adjourn to meet again on Wednesday, March 4, 1992, at 2 o'clock P.M., which motion was adopted.

MOTIONS IN WRITING

Senator Smith (J) requested and received permission to suspend the Rules in order to offer the following Motions in Writing, to-wit:

I move that the Bill, SB 305, on Page 73 of the 10th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Also:

I move that the Bill, SB 307, on Page 71 of the 10th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which were adopted, and the President and Presiding Officer of the Senate ordered said Bills, SB's 305 and 307, referred to the Standing Committee on Rules for placement on the Consent Calendar.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said

Committee, in session, has compared the following enrolled Senate Joint Resolutions with the original Senate Joint Resolutions, and finds same correctly enrolled, to-wit:

SJR 10. COMMENDING MARIAN ACREE TUCKER FOR OUTSTANDING CONTRIBUTIONS AND SERVICE TO JUDSON COLLEGE.

Also:

SJR 11. MOURNING THE DEATH OF THE REVEREND JOSEPH C. ESPY, JR., OF ABBEVILLE, ALABAMA.

Also:

SJR 12. MOURNING THE DEATH OF RONALD E. ELLIOTT, SR., OF MONTGOMERY, ALABAMA.

JIM PREUITT,
Chairperson.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing Senate Joint Resolutions, the titles of which are set out in the foregoing report from the Committee on Rules.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bills with the original Senate Bills and finds same correctly engrossed, to-wit:

S. 2. To propose a self-executing amendment to the Alabama Constitution of 1901, relative to setting the dates, times and length of an organizational, annual regular, annual budget and any special session of the Alabama Legislature; to provide for superseding Constitutional Amendment No. 339; to repeal Constitutional Amendment No. 448; and to provide for a constitutional election on the proposed amendment.

Also:

S. 59. To amend Sections 16-13-52 and 16-13-52.1, Code of Alabama 1975, to provide an alternative method for determining the number of current teacher units earned by a particular school system by authorizing the state superintendent to use the first month average daily attendance to determine the number of current teacher units and to further amend by deleting item (b) in its entirety.

JIM PREUITT,
Chairperson.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senator Waggoner:

S. 369. Relating to public health in this state; to prohibit smoking in a public place or at a meeting of a public body, except in a designated smoking area; and to prescribe penalties for violations.

Committee on Health

By Senator Bedsole:

S. 370. To authorize the Alabama State Docks Department to expend certain funds for a safety incentive program.

Committee on Finance
and Taxation

By Senator Langford:

S. 371. To amend Section 36-7-1 of the Code of Alabama 1975, to provide that certain requirements relating to the reimbursement of travel expenses of municipal officers and employees will not apply to the use of municipal credit cards by these officers and employees.

Committee on Governmental
Affairs/Local Government

By Senator Bailey:

S. 372. To provide for a minimum mandatory sentence of 25

years in the state penitentiary for certain sex crimes, or for burglary or kidnapping where the primary reason for commission of the crime is a sex offense.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Hilliard:

S. 373. To establish a Recycling Industry and Market Development Council to assist in the development of markets for recovered materials and products with recycled content in this state and to provide for the function, duties, and membership of the council.

Committee on Commerce,
Transportation, and Utilities

By Senator Hilliard (With Notice and Proof):

S. 374. To provide members of the council or governing body of any Class 1 municipality with a certain additional expense allowance; to provide that the expense allowance provided under this act and the expense allowances provided under Section 11-43-7.1, Code of Alabama 1975, shall be eligible for certain treatment both as to the determination of retirement benefits and allowances, and to the withholding of required contributions for membership in any pension or retirement system trust fund in which the members may participate.

Committee on Local
Legislation No. 2

I hereby certify that the notice and proof is attached to the Bill, SB 374, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

MOTION IN WRITING

Senator Bennett requested and received permission to suspend the Rules in order to offer the following Motion in Writing, to-wit:

I move that the Bill, SB 308, on page 61 of the 10th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 308, referred to the Standing Committee on Rules for placement on the Consent Calendar.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Flowers (With Notice and Proof):

H. 265. Relating to the City of Troy in Pike County; authorizing the city council to levy an additional ad valorem tax for education purposes; and providing for a referendum.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 265, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 265 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Grayson:

H. 65. To amend Act No. 91-679, H. 261 of the 1991 Regular

Session; to provide that certain appropriations for the Sickle Cell Education Program appropriated for the north Alabama area will be appropriated to the North Alabama Sickle Cell Association/Alabama A & M University; to provide for the transfer of the funds; and to designate a fiscal agent.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 65 - to the Committee on Constitution and Elections

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Freeman:

HJR 107. CREATING A BOARD TO COORDINATE THE SUPPORT AND PARTICIPATION BY THE STATE OF ALABAMA IN THE 1996 SUMMER OLYMPICS TO BE HELD IN ATLANTA, GEORGIA.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is created a board to coordinate the support and participation of the State of Alabama in the 1996 Summer Olympics to be held in Atlanta, Georgia. The objectives of the board shall be:

- (1) To promote the Olympics and encourage tourists to visit and spend time in Alabama while attending the Olympics.
- (2) To coordinate the use of facilities in Alabama that may be utilized for the Olympics.
- (3) Encourage private funding for the activities of the board.

The board shall coordinate with all of the following:

- (1) Alabama Department of Tourism and Travel.
- (2) Hotel and motel associations.
- (3) Business and industry.
- (4) Universities.
- (5) Chambers of commerce.

The board shall be composed of twelve members to be appointed as follows:

- (1) Four appointed by the Governor.
- (2) Four appointed by the Lieutenant Governor, two of whom shall be members of the Senate.
- (3) Four appointed by the Speaker of the House of Representatives, two of whom shall be members of the House of Representatives.

The Governor shall be the chair and the Lieutenant Governor shall be the vice chair. The Governor shall call the first meeting no later than 90 days after appointments are finalized by December 31, 1992. The members of the board shall receive the same mileage and per diem as state employees for attending meetings of the board. The board may only meet 30 days within each calendar year and the board shall be dissolved at the conclusion of the 1996 Summer Olympics.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The Resolution, HJR 107, set out in the foregoing Message from the House, was read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Cosby:

HJR 110. URGING THE LEGISLATURE AND ALL STATE

AGENCIES, SCHOOL SYSTEMS, AND HIGHER EDUCATION INSTITUTIONS TO PURCHASE RECYCLED PRODUCTS.

WHEREAS, there is limited waste disposal capacity available in the state and recycling is an alternative; and

WHEREAS, the Alabama Department of Environmental Management is finalizing the Alabama Solid Waste Management Plan, as required by Act 89-824 of the 1989 Regular Session, to prolong waste disposal capacity in the state and to require local governments to implement recycling programs as needed; and

WHEREAS, Act 90-564 of the 1990 Regular Session required the development of a model recycling program to be implemented by state departments and agencies that will generate large volumes of recyclable materials; and

WHEREAS, recycling cannot succeed unless recycled products are purchased and integrated into our daily work and home environments, allowing recycled products to become competitive with products made from virgin natural resources; and

WHEREAS, Section 41-4-110 of the Code of Alabama 1975, directs the Division of Purchasing of the Department of Finance to purchase and distribute all supplies and materials for the use of the state and each department, board, bureau, commission, agency, office, or institution of the state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we commend the Division of Purchasing for purchasing recycled products and encourage them to continue and expand efforts to use recycled products wherever and whenever practicable, and we urge all state funded operations and programs to use recycled products to complement their recycling program.

BE IT FURTHER RESOLVED, That the Legislative Department demonstrates its resolve to use recycled products by requesting the Secretary of the Senate, the Clerk of the House of Representatives, the Director of the Legislative Reference Service, and the Director of the Legislative Fiscal Office to provide options for recycled stationery and other paper products for use by the members and employees of the Legislature.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

On motion of Senator Dial, the Rules were suspended and the Resolution, HJR 110, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Reps. Harper, Layson, and Hooper:

HJR 104. RESOLUTION TO EXPRESS LEGISLATIVE INTENT REGARDING PRORATION OF THE STATE GENERAL FUND DURING FISCAL YEAR 1991-92.

WHEREAS, the Alabama Constitution divides the power of state government into three distinct branches - the legislative, judicial and executive; and

WHEREAS, neither branch shall exercise the powers granted to the other two branches; and

WHEREAS, the legislative branch has plenary power for the appropriation of state funds; and

WHEREAS, the Legislature has sole authority and responsibility to determine reasonable and adequate funding levels; and

WHEREAS, the Alabama Constitution prohibits deficit spending; and

WHEREAS, the Code of Alabama 1975, Section 41-4-90 provides the procedure for the restriction of allotments when revenue is insufficient to meet pending appropriations; and

WHEREAS, the restriction of allotments is an administrative function performed by the Governor and as such is clearly not an exercise of the Legislature's plenary power to make appropriations; and

WHEREAS, the Legislature was fully aware during the 1991 First Extraordinary Session that appropriations made to the judicial branch

for fiscal year 1990-91 were being prorated at the same level of proration as other agencies receiving funds from the State General Fund for fiscal year 1990-91; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the appropriations made in Act 91-738 in the First Extraordinary Session, 1991, are maximum, conditional and proportionate and are to be payable in full only if available revenue is sufficient to pay all appropriations from the State General Fund in full.

BE IT FURTHER RESOLVED, That it was the intent of the Legislature that all appropriations, with the exception of appropriations to fulfill contractual agreements such as debt service on general obligation bonds, be prorated equally in the event revenue was insufficient to fund those maximum, conditional appropriations made from the State General Fund.

BE IT FURTHER RESOLVED, That the appropriations in Act 91-738 made to the judicial branch by the Legislature for fiscal year 1991-92 are intended to be maximum appropriations and the allotments to said branch after proration represent adequate and reasonable funding for the judicial system, as determined by the Legislature exercising its plenary power to make such appropriations.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

The Resolution, HJR 104, set out in the foregoing Message from the House, was read and referred to the Standing Committee on Rules.

MOTION IN WRITING

Senator Little requested and received permission to suspend the Rules in order to offer the following Motion in Writing, to-wit:

I move that the Bill, SB 6, on page 62 of the 10th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 6, referred to the Standing Committee on Rules for placement on the Consent Calendar.

REPORTS OF COMMITTEES

Senator Barron, Chairperson of the Standing Select Committee on Fiscal Responsibility, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Dial:

S. 353. Providing for transfer of service credit from the Judicial Retirement Fund to the Teachers' Retirement System.

Senator Dial, Chairperson of the Standing Committee on Industrial Development and Expansion, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senators Dial, Bennett, Barron, Mitchell, and Hale:

S. 367. To provide for the environmental commemorative tag program; to provide for certain fees for environmental commemorative tags to be distributed to the Alabama Environmental Education Fund to be used for environmental education; for this purpose to amend Section 32-6-150 of the Code of Alabama 1975.

RESOLUTION

Senator deGraffenried offered the following Senate Joint Resolution, to-wit:

SJR 28. RELATIVE TO MEETING DAYS.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALABAMA, BOTH Houses thereof concurring, that when the two Houses of the Legislature adjourn today, Thursday, February 27, 1992, they adjourn to meet again on Wednesday, March 4, 1992.

On motion of Senator deGraffenried, the Rules were suspended and the Resolution was adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Joint

Resolutions, your signature thereto is requested.

**HJR 79. COMMENDING GREG CALHOUN FOR OUT-
STANDING ACHIEVEMENT AND SERVICE.**

Also:

**HJR 80. COMMENDING JAMES E. MARTIN FOR DISTIN-
GUISHED SERVICE TO AUBURN UNIVERSITY.**

GREG PAPPAS,
Clerk.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolutions, the titles of which are set out in the foregoing Message from the House.

RESOLUTION

Senators Dial and Bennett offered the following Senate Resolution, to-wit:

SR 29. CREATING A SENATE ETHICS COMMITTEE.

WHEREAS, it is unanimously agreed among the membership of the Senate that they are desirous of good government and harmonious relations between all members of the Senate; and

WHEREAS, it is realized that though there are differences of opinions of the membership, it is the desire that these differences be solved in a decorous manner, and in order to further these ends; now therefore,

BE IT RESOLVED BY THE SENATE OF THE LEGISLATURE OF ALABAMA, That pursuant to the provisions of Section 53 of Article IV of the Constitution of Alabama of 1901, there is hereby created a Senate Ethics and Conduct Committee whose responsibility shall be to monitor charges brought against an individual Senator during his participation in a session of the Senate or his participation in a standing or interim committee. This committee shall be composed of five members

of the Senate elected by the Senate at the earliest possible time after the passage of this resolution and the members shall serve without compensation. In the event of a charge brought against a member of said committee, then the Lieutenant Governor shall appoint a temporary replacement to the committee before it considers charges against the individual senator.

BE IT FURTHER RESOLVED, That the responsibility of the committee shall be to receive allegations of misconduct against an individual senator and recommend such action as it deems necessary to fulfill the responsibilities of the committee.

The procedure to be followed by the committee is as follows:

1. A member and a member only may file a written complaint with one of the members of said committee, stating the alleged violations of the Senate Rule.

2. After thorough investigation, by a majority vote, the committee may arbitrarily determine that no violation has occurred.

3. The committee, in executive session, may address the accused senator by issuing a warning.

4. The committee by a four-fifths vote may recommend to the Senate as a whole that further action against the accused be initiated.

Which was read and referred to the Standing Committee on Rules.

MOTION IN WRITING

Senator Dial offered the following Motion in Writing, to-wit:

MOTION IN WRITING

Notice having been given on a previous Legislative Day, motion is hereby made to amend the Senate Rules as follows:

Amend Rule 48 by deleting therefrom Rule 48 (b) in its entirety.

Which was read and referred to the Standing Committee on Rules.

BILLS ON THIRD READING

THE BILL:

H. 26. Relating to Mobile County, amending Act No. 91-370,

H. 891, 1991 Regular Session, which provides for the compensation of the license commissioner, so as to correct a typographical error.

was taken up.

On motion of Senator Lipscomb, the Rules were suspended and further consideration of the Bill, HB 26, was postponed subject to the call of the Chair.

THE BILL:

H. 27. Relating to Mobile County, amending Act No. 722, H. 1196, 1976 Regular Session, relating to issuance fees, so as to provide further for such fees.

was taken up.

On motion of Senator Lipscomb, the Rules were suspended and further consideration of the Bill, HB 27, was postponed subject to the call of the Chair.

THE BILL:

H. 36. Relating to the City of Wilmer in Mobile County; to amend Section II of Act No. 470, H. 952, 1939 Regular Session (Local Acts 1939, p. 298) as amended, which created and established the countywide civil service system in Mobile County, so as to provide further for exemptions and to provide for municipal employees to vote for removal from said system.

was taken up.

On motion of Senator Lipscomb, the Rules were suspended and further consideration of the Bill, HB 36, was postponed subject to the call of the Chair.

BUDGET ISOLATION RESOLUTION

Senator deGraffenried, B.I.R., SB 26, adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Corbett, deGraffenried, Denton, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Mitchell,

Owens, Smith (B), and Wilson

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Nays:

- 0

BILLS ON THIRD READING RESUMED**THE BILL:**

S. 26. Relating to insurance rates approved for workmen's compensation insurance carriers; to provide further for those rates.

was taken up.

On motion of Senator deGraffenried, the Rules were suspended and further consideration of the Bill, SB 26, was postponed subject to the call of the Chair.

Pursuant to Senate Rule 14, the Bill, SB 26, was placed at the end of the Regular Calendar for today.

BUDGET ISOLATION RESOLUTION

Senator Denton, B.I.R., SB 61, adopted.

Yeas 22 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Preuit, Smith (B), Smith (J), Waggoner, and Wilson -22

Nays:

- 0

BILLS ON THIRD READING RESUMED**THE BILL:**

S. 61. To amend Section 11-6-23, Code of Alabama 1975, relating to the state Highway Department's participation in the salary of county engineer trainees.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 23 Nays 0

**REGULAR SESSION
10th Day**

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Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuitt, Smith (B), Waggoner, Wilson, and Windom

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Nays:

- 0

MOTION IN WRITING

Senator Waggoner requested and received permission to suspend the Rules in order to offer the following Motion in Writing, to-wit:

I move that the Bill, SB 57, on page 31 of the 10th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 57, referred to the Standing Committee on Rules for placement on the Consent Calendar.

BUDGET ISOLATION RESOLUTION

Senator Bennett, B.I.R., SB 23, adopted.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, deGraffenried, Dial, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Preuitt, Smith (B), Waggoner, and Windom

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Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 23. Creating the Impaired Drivers Trust Fund in the state treasury to provide rehabilitative services to residents of the state with certain types of injuries.

was taken up.

The Standing Committee on Governmental Affairs/State Administration reported the following amendment to the Bill, SB 23, to-wit:

AMENDMENT TO SB 23

Amend Senate Bill No. 23, on Page 1, Line 33, as follows:

Delete "subject to the approval of both houses of the Legislature"

Which was adopted.

Yeas 22 Nays 0

Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, Corbett, deGraffenried, Dial, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuitt, Smith (B), Waggoner, Wilson, and Windom -22

Nays:

- 0

And said Bill, SB 23, as thus amended, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, Corbett, deGraffenried, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuitt, Smith (B), Waggoner, Wilson, and Windom -21

Nays:

- 0

RESOLUTION

Senators Little, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom offered the following Senate Resolution, to-wit:

SR 30. COMMENDING JAMES E. MARTIN FOR DISTIN-

GUISHED SERVICE TO AUBURN UNIVERSITY.

WHEREAS, James E. Martin, president of Auburn University since February 1984, has been instrumental in the rapid achievement of many self-established goals for his administration; and

WHEREAS, in addition to successfully securing 10-year reaccreditation of the University by the Southern Association of Colleges and Schools, Dr. Martin has provided leadership that further strengthened Auburn's academic and organizational structure; improved library and physical facilities; increased research activity; established new programs for faculty support and development; increased quality of students and improved academic scholarship support; and increased private giving; and

WHEREAS, more specifically, during his tenure, research contract and grant awards reached some \$26.9 million in 1989-90, up from \$9.7 million in 1983-84, while overall research funding increased from \$30.1 million to \$64.4 million during the same period; and

WHEREAS, Auburn's construction program, led by Dr. Martin and featuring more than \$150 million in projects, includes the renovation and expansion of the Ralph B. Draughon Library, and the privately developed Auburn University Hotel and Conference Center; and

WHEREAS, other accomplishments to his credit are the Auburn Generations Fund totaling \$111 million in gifts and commitments; the Eminent Scholars Program approved by the Legislature; increased faculty salaries; a recruiting program for academically talented students; a phenomenal rise in AU's average ACT score to 23.8 in 1991, compared with national, regional and state averages of 19-20; and a record enrollment reached in 1991 of 21,836 students, with more than 4,000 graduating per year; and

WHEREAS, Dr. Martin also has provided leadership to higher education as president of the Southeastern Conference, Alabama's representative on the executive committee of the Southern Regional Education Board and president of the Association of Alabama College Administrators; and

WHEREAS, a native of Vinemont, Alabama, and a graduate of Auburn with a B.S. degree in agricultural administration, Dr. Martin earned his M.S. degree at North Carolina State University and his Ph.D. at Iowa State University; prior to the presidency of Auburn, he served as president of the University of Arkansas System and was earlier

associated with Virginia Polytechnic Institute and State University, the University of Maryland and Oklahoma State University; and

WHEREAS, Dr. James E. Martin, as president of Auburn University, has served with great distinction, leading the University to unprecedented heights of achievement, and it is with deep gratitude that we commend his service and sincerely wish him well in all future endeavors; now therefore,

BE IT RESOLVED BY THE SENATE OF THE LEGISLATURE OF ALABAMA, That in recognition of outstanding professional achievement and service to Auburn University and higher education, we hereby express our appreciation to Dr. James E. Martin, whom we hold in highest personal regard and for whom a copy of this resolution shall be provided.

On motion of Senator Little, the Resolution was adopted by the Senate.

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 93, adopted.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Floyd, Ghee, Hale, Langford, Lindsey, Little, Mitchell, Owens, Preuitt, Smith (B), Waggoner, and Windom -19

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 93. To provide further for a certain definition relating to affirmative action programs.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, Corbett, Floyd, Ghee, Horn,

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Langford, Lindsey, Little, Mitchell, Owens, Parsons, Preuitt,
Waggoner, Wilson, and Windom -18

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 114, adopted.

Yeas 17 Nays 0

Yeas:

Senators:

Bennett, Campbell, Corbett, Floyd, Ghee, Hale, Langford, Lindsey,
Little, Mitchell, Owens, Parsons, Preuitt, Smith (B), Waggoner,
Wilson, and Windom -17

Nays: - 0

The President and Presiding Officer of the Senate declared a
quorum of the Senate was present but not voting.

BILLS ON THIRD READING RESUMED

THE BILL:

S. 114. To provide for a pay scale for county chief appraisers
based on population of the counties.

was read a third time at length and passed, and ordered sent forthwith to
the House.

Yeas 15 Nays 3

Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, Corbett, Floyd, Ghee, Langford,
Lindsey, Little, Owens, Parsons, Preuitt, Smith (B), and Wilson -15

Nays:

Senators:

Hale, Mitchell, and Windom - 3

SUNSET LAW

The hour of 11 o'clock A.M. having arrived, pursuant to the
provisions of Section 41-20-10, Code of Alabama 1975, the Senate

proceeded to consideration of the Sunset Legislation.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 31. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bills in the order named shall be the paramount and continuing order of business pursuant to Act No. 81-61 relative to (Sunset Act) taking precedence over all other matters until disposed of:

	Page
S. 46	56
Board of Examiners in Psychology, sunset law review, cont., bd. membs. req. to be st. residents, Sec. 34-26-21 am'd.	
S. 44	55
Securities Commission, sunset law review, cont., quarterly meetings, industrial development bond advisory authority, abolished, Secs. 8-6-53, 8-6-110, 8-6-111, 8-6-113, 8-6-115, 8-6-116, 8-6-118 and 8-6-119, Sec. 8-6-114 repealed	
S. 43	55
Board of Public Accountancy, sunset law review, cont., reciprocity certifying fees, late renewal and inactive status penalties, auth. to levy admin. fines, Secs. 34-1-4, 34-1-11, 34-1-12 am'd.	
S. 45	56
Heating and Air Conditioning Bd., sunset law review cont., incl. repair on manufactured housing, exec. sec. hired, inactive status, exam fee, Secs. 34-31-18, 34-31-21, 34-31-26, 34-31-29, 34-31-32 am'd.	
S. 36	51
Pilotage Commission Bd., sunset law review, cont.	
S. 42	54
Public Service Commission, sunset law review, cont.	

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- S. 37** 52
Board of Examiners of Mine Personnel, sunset law review, cont.
- S. 41** 54
Telecommunications Division of Finance Dept., sunset law review, cont., phone records destroyed six months after payment of bill, Sec. 41-4-284 am'd.
- S. 39** 53
Examining Bd. for Professional Entomologists, Plant Pathologists, Horticulturists, Floriculturists & Tree Surgeons, sunset law review terminated, trans. to Commissioner of Ag. and Indus., Secs. 2-28-1, 2-28-2, 2-28-3, 2-28-4, 2-28-5, 2-28-8 am'd.
- S. 38** 52
Board of Social Work Examiners, sunset law review, cont., admin. fines auth., bd. membership appointments alt., Secs. 34-30-4, 34-30-50, 34-30-52 am'd.
- S. 40** 53
Liquefied Petroleum Gas Bd., sunset law review, cont., filling cert. vacancies, terms of office, balances over \$200,000 to gen. fund, B-1 permits and exemptions for sellers of welding gas, Secs. 9-17-101, 9-17-104, 9-17-105, 9-17-107 am'd.
- S. 47** 57
Board of Auctioneers, sunset law review, cont., cont. ed. req., admin. fines auth., bd. membership requirements alt., Secs. 34-4-21, 34-4-29, 34-4-50 am'd.
- S. 49** 58
Insurance Dept., sunset law review, cont., nat'l. exam & fees, cont. ed. req., incompetence & lack of trust grounds for discovery, temp. license, premium submission date, Secs. 27-4-2, 27-4-7, 27-7-11, 27-7-18, 27-7-19, 27-7-23, 27-8-7, 27-8-15, and 27-8-16 amd.
- S. 100** 60
Plumbers & Gas Fitters Examining Bd., sunset law review, cont., cont. ed., exam qualifications, grandfather clause ext., admin. fines, late renewal penalty, private prop. owners auth. to perform plumbing on premises, Secs.

34-37-6, 34-37-8, 34-37-9, 34-37-12, and 34-37-15 amd.

S. 50 58
Real Estate Appraisers Bd., sunset law review cont., disciplinary powers clarified, two-yr. license period, admin. fines auth., Secs. 34-27A-13, 34-27A-15, 34-27A-20 am'd.

S. 53 60
Indian Affairs Commission, sunset law review, cont., negligent mbrs. removed, monthly meeting abolished, dir. hired without comm. involvement, approp., surplus prop. exempt from ADECA sur- charge, less restrictive ann. reports, Secs. 41-9-708, 41-9-712, 41-9-713, 41-9-715, and 41-9-716 amd.

S. 51 59
Board of Funeral Services, sunset law review cont., embalmers' experience alt., admin. procedure act adopted, cont. ed., disciplinary measures, fines, delete ref. to branch establishments, Secs. 34-13-20, 34-13-26, 34-13-53, 34-13-56, and 34-13-111 amd.

S. 52 59
Board of Cosmetology, sunset law review, cont., continuing ed. req., auth. to levy fines, Secs. 34-7-19, 34-7-21 am'd.

S. 48 57
Alcoholic Beverage Control Bd., sunset law review, cont., terminated Oct. 1, 1993, denatured alcohol manufacture fee, plan to remove bd. from wholesale & retail sale of alcoholic beverages, Sec. 28-3A-21 am'd., Secs. 28-3-40 through 28-3-55 repealed

S. 35 51
Real Estate Comm., remove exemption for apt. resident managers, quorum, recovery fund payments paid once, refunds, fees for licenses and crim. checks, qualifying broker requirements, cert. restrictions deleted for real estate schools & testing, exempts.

On motion of Senator Preuit, the Resolution was adopted by the Senate.

BUDGET ISOLATION RESOLUTION

Senator Owens, B.I.R., SB 46, adopted.

Yeas 18 Nays 0

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Yeas:

Senators:

Barron, Bennett, Bolling, Campbell, Dial, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Little, Mitchell, Owens, Preuitt, Smith (B), Wilson, and Windom -18

Nays:

- 0

**SPECIAL ORDER
BILLS ON THIRD READING RESUMED**

The Senate proceeded to consideration of the special, paramount, and continuing order of business for today, the first of which was the Bill:

S. 46. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Examiners in Psychology with certain modifications; to amend Section 34-26-21, Code of Alabama 1975.

And said Bill, SB 46, was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 20 Nays 0

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Corbett, Dial, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Parsons, Preuitt, Smith (B), Waggoner, and Windom -20

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 44, adopted.

Yeas 20 Nays 0

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Denton, Dial, Floyd, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Smith (B), Smith (J), and Waggoner -20

Nays:

- 0

BILLS ON THIRD READING RESUMED**THE BILL:**

S. 44. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Securities Commission with certain modifications; to amend Sections 8-6-53, 8-6-110, 8-6-111, 8-6-113, 8-6-115, 8-6-116, 8-6-118, and 8-6-119, Code of Alabama 1975.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 20 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Corbett, Denton, Floyd, Ghee, Hale, Horn, Langford, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Smith (B), and Waggoner -20

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 43, adopted.

Yeas 20 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Campbell, Corbett, Denton, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, and Waggoner -20

Nays:

- 0

BILLS ON THIRD READING RESUMED**THE BILL:**

S. 43. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Public Accountancy with certain modifications; to amend Sections 34-1-4, 34-1-11, and 34-1-12, Code of Alabama 1975.

was read a third time at length and passed, and ordered sent forthwith to the House.

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Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton,
Floyd, Ghee, Hale, Horn, Lindsey, Lipscomb, Mitchell, Owens,
Parsons, Preuitt, Smith (B), Waggoner, and Wilson -21

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 45, adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bolling, Campbell, Corbett, Denton, Dial,
Floyd, Hale, Horn, Langford, Lindsey, Lipscomb, Parsons, Preuitt,
Smith (B), and Wilson -18

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 45. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Heating and Air Conditioning Contractors with certain modifications; to amend Sections 34-31-18, 34-31-21, 34-31-26, 34-31-29, and 34-31-32, Code of Alabama 1975.

was taken up.

The Standing Committee on Economic Affairs reported the following substitute for the Bill, SB 45, to-wit:

SUBSTITUTE FOR SB 45

**A BILL
TO BE ENTITLED
AN ACT**

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Heating and Air Conditioning Contractors with certain modifications; to amend Sections 34-31-18, 34-31-21,

34-31-26, 34-31-29, and 34-31-32, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the sunset committee recommends the continuance of the Board of Heating and Air Conditioning Contractors, with the additional recommendations for statutory changes of the board as set out in Section 3 of this act.

Section 2. The existence and functioning of the Board of Heating and Air Conditioning Contractors, created and functioning pursuant to Sections 34-31-1 to 34-31-34, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Sections 34-31-18, 34-31-21, 34-31-28, 34-31-26, 34-31-29, and 34-31-32 of the Code of Alabama 1975, are amended to read as follows:

"§34-31-18.

"For the purposes of this chapter, the following terms shall have the meanings herein ascribed to them unless the context clearly indicates otherwise:

"(1) **CERTIFIED CONTRACTOR.** Any individual or any regularly employed person for any partnership or corporation who for hire is engaged in the installation or service and repair of heating and air conditioning systems; provided that nothing in this chapter shall apply to retail sellers of heating and air conditioning systems who do not install said systems themselves. A certified contractor is authorized to install or service and repair or replace natural gas heating and air conditioning appliances, including specifically the servicing, repair, or replacement of those appliances in manufactured housing set up as stationary housing, but excluding the piping to such appliances, and except as otherwise prohibited by law.

"(2) **INSTALLATION.** The act of setting up or installing a heating and air conditioning system for operation and use.

"(3) **SERVICE AND REPAIR.** The act of maintaining for operation a heating and air conditioning system which has previously been installed including parts replacement within a piece of equipment, including but not limited to, systems previously installed in manufactured housing set up as stationary housing.

"(4) **BOARD.** The state board of heating and air conditioning

contractors, herein established.

"(5) HEATING AND AIR CONDITIONING SYSTEMS, or SYSTEM. A heating and/or cooling apparatus consisting of an air heating and/or cooling fixture from pipes, plenums or blowers including any accessory and equipment installed in connection herewith; specifically excluding window units, automotive or farm implement type heating and/or air conditioning equipment.

"(6) ADMINISTRATIVE PROCEDURES LAW. Sections 41-22-1 through 41-22-27, and any subsequent amendment or supplement thereto, and any rules or regulations promulgated thereto.

"(7) RESPONSIBLE CHARGE. The direction of projects involving the installation or service and repair of heating and air conditioning systems requiring initiation, professional skills, technical knowledge and independent judgment."

"§34-31-21.

"(a) The board shall elect from among its members a chairman and a secretary. The board may hire an executive secretary to serve at the pleasure of the board. The board may require the executive secretary to perform the duties required by this section and any other tasks required by the board. The board shall set the salary of the executive secretary.

"(b) The chairman shall preside over meetings of the board or designate another member to preside in his absence.

~~"(c) The secretary shall keep the minutes, books and other records and files of the board. He shall issue all certificates in the name of the board and shall send out all notices and attend to all correspondence under the direction of the board. He shall receive and deposit all fees and perform such other duties as are incidental to his office as may be required by the board, and shall deposit said fees as provided by law.~~

"(c) The secretary or, if directed by the board, the executive secretary shall perform the following tasks:

"(1) Keep all minutes, books, records, and files of the board.

"(2) Issue all certificates in the name of the board.

"(3) Send all notices and attend to all correspondence directed by the board.

"(4) Receive and deposit all fees.

"(5) Perform all incidental duties of the office as directed by the board.

"(d) The secretary shall give bond, payable to the governor, in the penal sum of \$5,000.00 for the faithful performance of his duties, and the premium therefor shall be paid from the fees of the board.

"(e) No moneys shall be withdrawn from the funds of the board except by direction of the board as provided by state law.

"(f) A majority of the board shall constitute a quorum for the transaction of all business.

"(g) The board is also authorized to adopt and publish minimum repair and service standards for its certified contractors, and shall mail a copy thereof to every certified contractor at least 30 days before the standard of criteria becomes effective. Certified contractors who fail to comply with such minimum standards and criteria shall be punished as prescribed in section 34-31-32(a) of this chapter.

"(h) The board is authorized to hold hearings, call witnesses, administer oaths, take testimony and obtain evidence in the conduct of its business. It is further authorized to take such disciplinary actions as are authorized in subsection (c) of section 34-31-32."

"§34-31-26.

"All certificates provided for herein shall be renewed annually, not later than 90 days after the first day of October of each year. All holders of certificates shall be entitled to renewal thereof upon payment of a renewal fee set forth by the board as provided for in this chapter."

"(b) Any person certified by the board may elect an inactive status certificate by notifying the board in writing. The fee for the issuance and renewal of an inactive status certificate shall be established by the board.

"(c) The board shall provide by rule or regulation those activities which an inactive status certificate holder may engage in, and for a procedure for the reinstatement as an active status certificate holder."

"§34-31-28.

"(a) All prospective certified contractors in this state desiring to

qualify in accordance with the provisions of this chapter shall be required to stand for a written examination before the board. Any applicant failing to pass his first examination for a certificate shall be entitled to take any subsequent examination, either written or, upon request of the applicant, an oral or practical examination which is equivalent to the written examination, to be held within six months from the date of his first or latest unsuccessful examination.

"(b) All persons engaged in the business of installation or service and repair for a period of at least two years prior to September 30, 1988, ~~or who were registered with the board as of April 7, 1988,~~ shall apply with the board for certification not later than ~~January 1, 1989~~ August 31, 1992. Such persons shall not be required to stand for an examination, but shall pay the same renewal fees which are charged all other certified contractors.

"(c) The board is hereby authorized to require a performance bond in the amount of \$5,000.00 per year for certified contractors who, upon valid complaint and investigation by the board, are found to have performed substandard installation, service and repair work.

"(d) Counties, municipalities or other local entities are hereby prohibited from requiring any further local testing or other requirements of certified contractors, subject to the payment of any applicable local privilege, license or business fees or charges.

"§34-31-29.

"(a) The board shall provide for examinations which test the knowledge, skill and proficiency of the applicants. Subject matter shall be limited to the following subjects: safety, basic heating and air conditioning theory, refrigeration as applied to air conditioning, diagnostic trouble shooting, repair or servicing of heating and air conditioning systems, air handling, standard mechanical codes, standard gas codes, standard electrical codes, equipment installations and duct sizing as they relate to heating and air conditioning.

"(b) All test questions shall be prepared to deal with the criteria on a trade level only. Examinations shall be held at such time and place as may be fixed by the board at least once each three-month period. Written notice of the time and place of examinations shall be mailed to all persons who have filed current applications for the examinations of the board.

"(c) The board may charge each applicant for examination a

reasonable fee based on the actual costs for administering the examinations."

"§34-31-32.

"(a) Any person engaged in business as a certified contractor or performing the functions of a certified contractor in violation of this chapter shall be guilty of a Class C misdemeanor, as defined by the state criminal code.

"(b) The board may, at its discretion, impose a late penalty on those certified contractors who fail to renew certificates by December 31 of each year. The board may also remove certification from any certified person who fails to renew his certificate by the first day of March and require said person to apply for a new certificate. Furthermore, the board may at its discretion, remove, revoke or suspend the certification from any certified contractor who provides substandard or dangerous service, repair or installation, or who otherwise violates a provision of this chapter, and may require such person to apply for a new certification. The board may, in its discretion, also require the successful re-testing of any such person who applies for a new certification.

"(c) The board is hereby authorized to reprimand, in writing, any certified contractor who provides substandard or dangerous service, repair or installation, or who otherwise violates a provision of this chapter.

"(d) The board may levy and collect administrative fines for serious violations of this chapter or the rules and regulations of the board of not more than five hundred dollars (\$500) for each violation."

Section 4. The Legislatures concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

On motion of Senator Bedsole, said substitute was laid on the table.

Senator Bedsole then offered the following substitute, for the Bill, SB 45, to-wit:

SUBSTITUTE FOR SB 45

**A BILL
TO BE ENTITLED
AN ACT**

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Heating and Air Conditioning Contractors with certain modifications; to amend Sections 34-31-18, 34-31-21, 34-31-25, 34-31-26, 34-31-28, 34-31-29, and 34-31-32, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the sunset committee recommends the continuance of the Board of Heating and Air Conditioning Contractors, with the additional recommendations for statutory changes of the board as set out in Section 3 of this act.

Section 2. The existence and functioning of the Board of Heating and Air Conditioning Contractors, created and functioning pursuant to Sections 34-31-1 to 34-31-34, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Sections 34-31-18, 34-31-21, 34-31-25, 34-31-26, 34-31-28, 34-31-29, and 34-31-32 of the Code of Alabama 1975, are amended to read as follows:

"§34-31-18.

"For the purposes of this chapter, the following terms shall have the meanings herein ascribed to them unless the context clearly indicates otherwise:

"(1) **CERTIFIED CONTRACTOR.** Any individual or any regularly employed person for any partnership or corporation who for hire is engaged in the installation or service and repair of heating and air conditioning systems; provided that nothing in this chapter shall apply to retail sellers of heating and air conditioning systems who do not install said systems themselves. A certified contractor is authorized to install or service and repair or replace natural gas heating and air conditioning appliances, including specifically the servicing, repair, or replacement of

those appliances in manufactured housing set up as stationary housing, but excluding the piping to such appliances, and except as otherwise prohibited by law.

"(2) INSTALLATION. The act of setting up or installing a heating and air conditioning system for operation and use.

"(3) SERVICE AND REPAIR. The act of maintaining for operation a heating and air conditioning system which has previously been installed including parts replacement within a piece of equipment, including but not limited to, systems previously installed in manufactured housing set up as stationary housing.

"(4) BOARD. The state board of heating and air conditioning contractors, herein established.

"(5) HEATING AND AIR CONDITIONING SYSTEMS, or SYSTEM. A heating and/or cooling apparatus consisting of an air heating and/or cooling fixture from pipes, plenums or blowers including any accessory and equipment installed in connection herewith; specifically excluding window units, automotive or farm implement type heating and/or air conditioning equipment.

"(6) ADMINISTRATIVE PROCEDURES LAW. Sections 41-22-1 through 41-22-27, and any subsequent amendment or supplement thereto, and any rules or regulations promulgated thereto.

"(7) RESPONSIBLE CHARGE. The direction of projects involving the installation or service and repair of heating and air conditioning systems requiring initiation, professional skills, technical knowledge and independent judgment."

"§34-31-21.

"(a) The board shall elect from among its members a chairman and a secretary. The board may hire an executive secretary to serve at the pleasure of the board. The board may require the executive secretary to perform the duties required by this section and any other tasks required by the board. The board shall set the salary of the executive secretary.

"(b) The chairman shall preside over meetings of the board or designate another member to preside in his absence.

~~"(c) The secretary shall keep the minutes, books and other records~~

~~and files of the board. He shall issue all certificates in the name of the board and shall send out all notices and attend to all correspondence under the direction of the board. He shall receive and deposit all fees and perform such other duties as are incidental to his office as may be required by the board, and shall deposit said fees as provided by law.~~

"(c) The secretary or, if directed by the board, the executive secretary shall perform the following tasks:

"(1) Keep all minutes, books, records, and files of the board.

"(2) Issue all certificates in the name of the board.

"(3) Send all notices and attend to all correspondence directed by the board.

"(4) Receive and deposit all fees.

"(5) Perform all incidental duties of the office as directed by the board.

"(d) The secretary shall give bond, payable to the governor, in the penal sum of \$5,000.00 for the faithful performance of his duties, and the premium therefor shall be paid from the fees of the board.

"(e) No moneys shall be withdrawn from the funds of the board except by direction of the board as provided by state law.

"(f) A majority of the board shall constitute a quorum for the transaction of all business.

"(g) The board is also authorized to adopt and publish minimum repair and service standards for its certified contractors, and shall mail a copy thereof to every certified contractor at least 30 days before the standard of criteria becomes effective. Certified contractors who fail to comply with such minimum standards and criteria shall be punished as prescribed in section 34-31-32(a) of this chapter.

"(h) The board is authorized to hold hearings, call witnesses, administer oaths, take testimony and obtain evidence in the conduct of its business. It is further authorized to take such disciplinary actions as are authorized in subsection (c) of section 34-31-32.

"§34-31-25.

"(a) For the purpose of defraying the expense in carrying out the

provisions of this chapter, the board may fix fees to be paid by applicants for certificates, but in no event shall the charges fixed by said board exceed \$100.00. All fees fixed by the board must accompany the application for examination, and no part of said fees shall be refunded. Said fees shall be received by the board and held solely for the purpose of paying the expense of carrying out the provisions of this chapter.

"(b) All penalties collected by the board shall be used in the same manner and for the same purpose as fees.

"(c) Renewal fees shall be established by the board as to insure adequate funding to support the board. Fees shall not exceed ~~\$50.00~~ one hundred dollars (\$100) per year."

"§34-31-26.

"All certificates provided for herein shall be renewed annually, not later than 90 days after the first day of October of each year. All holders of certificates shall be entitled to renewal thereof upon payment of a renewal fee set forth by the board as provided for in this chapter."

"(b) Any person certified by the board may elect an inactive status certificate by notifying the board in writing. The fee for the issuance and renewal of an inactive status certificate shall be established by the board."

"(c) The board shall provide by rule or regulation those activities which an inactive status certificate holder may engage in, and for a procedure for the reinstatement as an active status certificate holder."

"§34-31-28.

"(a) All prospective certified contractors in this state desiring to qualify in accordance with the provisions of this chapter shall be required to stand for a written examination before the board. Any applicant failing to pass his first examination for a certificate shall be entitled to take any subsequent examination, either written or, upon request of the applicant, an oral or practical examination which is equivalent to the written examination, to be held within six months from the date of his first or latest unsuccessful examination.

"(b) All persons engaged in the business of installation or service and repair for a period of at least two years prior to September 30, 1988, ~~or who were registered with the board as of April 7, 1988,~~ shall apply with the board for certification not later than ~~January 1, 1989~~

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August 31, 1992. Such persons shall not be required to stand for an examination, but shall pay the same renewal fees which are charged all other certified contractors.

"(c) The board is hereby authorized to require a performance bond in the amount of \$5,000.00 per year for certified contractors who, upon valid complaint and investigation by the board, are found to have performed substandard installation, service and repair work.

"(d) Counties, municipalities or other local entities are hereby prohibited from requiring any further local testing or other requirements of certified contractors, subject to the payment of any applicable local privilege, license or business fees or charges.

"§34-31-29.

"(a) The board shall provide for examinations which test the knowledge, skill and proficiency of the applicants. Subject matter shall be limited to the following subjects: safety, basic heating and air conditioning theory, refrigeration as applied to air conditioning, diagnostic trouble shooting, repair or servicing of heating and air conditioning systems, air handling, standard mechanical codes, standard gas codes, standard electrical codes, equipment installations and duct sizing as they relate to heating and air conditioning.

"(b) All test questions shall be prepared to deal with the criteria on a trade level only. Examinations shall be held at such time and place as may be fixed by the board at least once each three-month period. Written notice of the time and place of examinations shall be mailed to all persons who have filed current applications for the examinations of the board.

"(c) The board may charge each applicant for examination a reasonable fee based on the actual costs for administering the examinations."

"§34-31-32.

"(a) Any person engaged in business as a certified contractor or performing the functions of a certified contractor in violation of this chapter shall be guilty of a Class C misdemeanor, as defined by the state criminal code.

"(b) The board may, at its discretion, impose a late penalty on those certified contractors who fail to renew certificates by December 31

of each year. The board may also remove certification from any certified person who fails to renew his certificate by the first day of March and require said person to apply for a new certificate. Furthermore, the board may at its discretion, remove, revoke or suspend the certification from any certified contractor who provides substandard or dangerous service, repair or installation, or who otherwise violates a provision of this chapter, and may require such person to apply for a new certification. The board may, in its discretion, also require the successful re-testing of any such person who applies for a new certification.

"(c) The board is hereby authorized to reprimand, in writing, any certified contractor who provides substandard or dangerous service, repair or installation, or who otherwise violates a provision of this chapter.

"(d) The board may levy and collect administrative fines for serious violations of this chapter or the rules and regulations of the board of not more than five hundred dollars (\$500) for each violation."

Section 4. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

Yeas 18 Nays 1

Yeas:

Senators:

Barron, Bedsole, Campbell, Corbett, Denton, Dial, Foshee, Ghee, Hale, Horn, Langford, Lipscomb, Little, Mitchell, Owens, Preuit, Smith (B), and Waggoner

-18

Nay: Senator Bailey

- 1

And said Bill, SB 45, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 19 Nays 1

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369

Yeas:

Senators:

Barron, Bedsole, Bolling, Campbell, Corbett, Denton, Dial, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuitt, Smith (B), and Waggoner -19

Nay: Senator Bailey

- 1

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 23. Creating the Impaired Drivers Trust Fund in the state treasury to provide rehabilitative services to residents of the state with certain types of injuries.

JIM PREUITT,
Chairperson.

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 36, adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bolling, Campbell, Corbett, Denton, Dial, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Preuitt, and Smith (B) -18

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 36. Relating to the Alabama Sunset Law; to continue the existence and functioning of the State Pilotage Commission.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bolling, Corbett, Denton, Dial, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Preuitt, Smith (B), and Smith (J) -19

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 42, adopted.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Corbett, Denton, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Preuitt, Smith (B), and Smith (J) -19

Nays:

- 0

BILLS ON THIRD READING RESUMED**THE BILL:**

S. 42. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Public Service Commission.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Corbett, Denton, Floyd, Hale, Horn, Langford, Lindsey, Lipscomb, Owens, Preuitt, Smith (B), Smith (J), Waggoner, and Wilson -18

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 37, adopted.

Yeas 23 Nays 0

REGULAR SESSION
10th Day

371

Yeas:

Senators:

Barron, Bedsole, Bennett, Corbett, deGraffenried, Denton, Dial, Floyd, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuitt, Smith (B), Smith (J), Waggoner, Wilson, and Windom -23

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 37. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Examiners of Mine Personnel.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Corbett, Denton, Dial, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuitt, Smith (B), Smith (J), Wilson, and Windom -21

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 41, adopted.

Yeas 21 Nays 0

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Corbett, Denton, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Preuitt, Smith (B), Smith (J), Wilson, and Windom -21

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 41. Relating to the Alabama Sunset Law; to continue the

existence and functioning of the Telecommunications Division of the Department of Finance with certain modifications; to amend Section 41-4-284, Code of Alabama 1975, to require the destruction of all telephone records six months following the payment of the billing for the telephone usage.

was taken up.

The Standing Committee on Economic Affairs reported the following substitute for the Bill, SB 41, to-wit:

SUBSTITUTE FOR SB 41

A BILL TO BE ENTITLED AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Telecommunications Division of the Department of Finance with certain modifications; to amend Section 41-4-284, Code of Alabama 1975, to require the destruction of all telephone records two months following the payment of the billing for the telephone usage.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the sunset committee recommends the continuance of the Telecommunications Division of the Department of Finance, with the additional recommendations for statutory changes of the division as set out in Section 3 of this act.

Section 2. The existence and functioning of the Telecommunications Division of the Department of Finance, created and functioning pursuant to Sections 41-4-280 to 41-4-293, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Section 41-4-284 of the Code of Alabama 1975, is amended to read as follows:

"§41-4-284.

"The department shall have the following additional duties:

"(1) To establish and coordinate through either state ownership or commercial leasing, all telecommunications systems and services

affecting the management and operations of the state.

"(2) To act as the centralized approving authority for the acquisition of all telecommunications systems or services provided to state agencies whether obtained through lease or purchase, including pay telephones located on premises owned by the state or any of its agencies.

"(3) To charge respective user agencies for their proportionate cost of the installation, maintenance, and operation of the telecommunications systems and services, including the operation of the telecommunications division.

"(4) To develop coordinated telecommunications systems or services within and among all state agencies and require, where appropriate, cooperative utilization of telecommunications equipment, facilities, and services by aggregating users.

"(5) To review, coordinate, approve, or disapprove all requests by state agencies for the procurement, through purchase or lease, of telecommunications systems or services including telecommunications proposals, studies, and consultation contracts.

"(6) To establish and define telecommunications system and service specifications and designs so as to assure compatibility of telecommunications systems and services within state government.

"(7) To provide a continuous, comprehensive analysis and inventory of telecommunications costs, facilities, and systems within state government.

"(8) To advise and provide consultation to agencies with respect to telecommunications management planning and related matters including training within state government in telecommunications technology and system use.

"(9) Effective July 1, 1992, the telecommunications division shall destroy and discard from its system all records of telephone usage two months following the payment of the billing for that usage period."

Section 4. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

Yeas 20 Nays 0

Yeas:

Senators:

Barron, Bennett, Bolling, Campbell, Corbett, Denton, Floyd, Foshee, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Preuit, Smith (B), Smith (J), and Windom -20

Nays:

- 0

And said Bill, SB 41, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 17 Nays 3

Yeas:

Senators:

Bailey, Bennett, Campbell, Corbett, Denton, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Mitchell, Preuit, Smith (B), Smith (J), Waggoner, and Windom -17

Nays:

Senators:

Bolling, Dial, and Lipscomb

- 3

RECESS

At 12:05 P.M., on motion of Senator Corbett, the Senate took a recess until 1:15 P.M.

At 1:15 P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 39, adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett,

REGULAR SESSION
10th Day

375

deGraffenried, Denton, Dial, Floyd, Hale, Horn, Langford, Little,
Mitchem, Owens, and Preuitt -18

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 39. Relating to the Alabama Sunset Law; to terminate the existence and functioning of the Examining Board for Professional Entomologists, Plant Pathologists, Horticulturists, Floriculturists, and Tree Surgeons; to transfer the duties of the Board to the Commissioner of Agriculture and Industries, and to amend Sections 2-28-1 to 2-28-5, inclusive, and 2-28-8 of the Code of Alabama 1975.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried,
Denton, Dial, Floyd, Hale, Horn, Langford, Little, Mitchem, Preuitt,
Smith (J), and Windom -18

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 38, adopted.

Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, deGraffenried, Denton, Dial, Floyd,
Ghee, Hale, Horn, Langford, Lindsey, Little, Mitchell, Mitchem,
Owens, Preuitt, Smith (J), Wilson, and Windom -21

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 38. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Social Work

Examiners with certain modifications; to amend Sections 34-30-4, 34-30-50, and 34-30-52, Code of Alabama 1975.

was taken up.

The Standing Committee on Economic Affairs reported the following substitute for the Bill, SB 38, to-wit:

SUBSTITUTE FOR SB 38

A BILL TO BE ENTITLED AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Social Work Examiners with certain modifications; to amend Sections 34-30-4, 34-30-22, 34-30-50, and 34-30-52, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the sunset committee recommends the continuance of the Alabama Board of Social Work Examiners, with the additional recommendations for statutory changes of the board as set out in Section 3 of this act.

Section 2. The existence and functioning of the Alabama Board of Social Work Examiners, created and functioning pursuant to Sections 34-30-1, to 34-30-58, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Sections 34-30-4, 34-30-22, 34-30-50, and 34-30-52 of the Code of Alabama 1975, are amended to read as follows:

"§34-30-4.

"(a) The state board of social work examiners, after a hearing, may refuse to renew, may suspend or may revoke any license issued under this chapter upon proof that the person has engaged in unprofessional conduct within the last five years, including, but not limited to:

"(1) Conviction of a felony;

"(2) Habituation or addiction to habit-forming drugs, either of which impairs the ability to perform his or her work;

"(3) Conviction of fraud or deceit in connection with services rendered as a social worker licensed under this chapter or in establishing qualifications under this chapter;

"(4) Aiding or abetting a person not licensed under this chapter who is falsely representing himself as a social worker licensed under this chapter;

"(5) Failing to be relicensed and continuing to represent himself or herself as licensed after the expiration of his or her license; or

"(6) Being found guilty of unprofessional conduct by the rules established by the board of social work examiners.

"(b) In addition to the disciplinary powers provided in subsection (a), the board may levy and collect administrative fines for serious violations of this chapter or the rules and regulations of the board of not more than five hundred dollars (\$500) for each violation."

"§34-30-22.

"The state board of social work examiners shall issue a license as a 'licensed bachelor social worker,' a 'licensed graduate social worker' or a 'licensed certified social worker' to an applicant who:

"(1) Is at least 19 years of age;

"(2) Has paid an initial examination fee established by the board;

"(3) Has passed an examination prepared by the state board for that purpose;

"(4) Has ascribed to a professional code of ethics developed and adopted by the board; and

"(5) Meets the following additional requirements for the level at which they are applying to be licensed:

"a. Bachelor social worker:

"1. Has a baccalaureate degree from an accredited college or university including completion of a social work program. At the end of five years from June 8, 1984, applicants who then apply must have a baccalaureate degree from an accredited college or university including completion of a social work program approved or accredited by the council on social work education or

"2. For a period of six years from May 23, 1977 an applicant may be licensed who has a baccalaureate degree from an accredited college or university and has successfully completed two years of full-time continuous employment in a social work position under supervision approved by the board.

"3. For a period of one year from the effective date of this amendatory act, an applicant may be licensed who has graduated from a nonaccredited college or university in 1981 with a baccalaureate degree in Sociology with a concentration in Social Work.

"b. Graduate social worker: has a master of social work or a doctor of social work from a college or university approved or accredited by the council on social work education.

"c. Certified social worker: 1. Has a master of social work or a doctor of social work from a college or university approved or accredited by the council on social work education; and 2. Has had at least two years of post-master or doctorate experience in the practice of social work under the supervision of a licensed certified social worker."

"§34-30-50.

"(a) There is hereby created an Alabama board of social work examiners, which shall consist of seven members appointed by the governor. No person shall be excluded from serving on the board by reason of race, sex or national origin. Four members shall be 'licensed certified social workers' under the provisions of this chapter, who have rendered service, education, or research in social work. Two members shall be 'licensed graduate social workers' under the provisions of this chapter, who shall have rendered service, education, or research in social work. One member shall be a 'licensed bachelor social worker' under the provisions of this chapter who has rendered service, education, or research in social work. Initial members shall be persons eligible for licensing as provided by this chapter. Members shall be appointed within 90 days after May 23, 1977, from a list of names of qualified persons submitted by any interested parties. The governor may request the submission of additional names.

"(b) After the effective date of the act adding this subsection, successor members of the board shall be appointed by the Governor as provided in this subsection. At least one position on the board shall be represented by a person who is a member of a minority race. Within 30 days following the expiration of a term or terms of office, the board shall notify each licensee in writing of the vacancy and shall solicit the nomi-

nation of not more than five licensed certified social workers, licensed graduate social workers, or licensed bachelor social workers, as the case may be, for consideration for each position to be filled. The board shall certify the names of not more than three persons receiving the highest number of nominations for each position to the Governor. The Governor shall appoint one of the nominated persons for the position or positions within 30 days following receipt of the list. If the Governor fails to make the appointment within the 30-day period, the person for each position receiving the highest number of nominations shall become the successor board member for that respective position. The first successor member appointed after the effective date of this amendatory act shall be a member of a minority race who meets all other qualifications of this article. Beginning with the seventh appointment following the effective date of the act adding this subsection, not more than one member from any United States Congressional District, as those districts exist as of the effective date, shall be appointed to serve at the same time."

"§34-30-52.

"Appointments to fill vacancies on the board of social work examiners caused by a reason other than the expiration of a member's term shall be for the duration of the unexpired term and shall be made by the governor from a list as described in section 34-30-50. ~~Such board vacancies shall be publicized at least 30 days prior to replacement for the acceptance of new nominations."~~

Section 4. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Hale, Horn, Langford, Lipscomb, Little, Mitchell, Mitchem, Owens, Smith (B),

Smith (J), Wilson, and Windom -19

Nays: - 0

And said Bill, SB 38, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Floyd, Hale, Horn, Langford, Lipscomb, Little, Mitchell, Owens, Preuitt, Smith (B), Smith (J), Wilson, and Windom -21

Nays: - 0

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 40, adopted.

Yeas 20 Nays 0

Yeas:

Senators:

Barron, Bennett, Bolling, Campbell, Corbett, Dial, Floyd, Ghee, Horn, Langford, Lipscomb, Little, Mitchell, Mitchem, Owens, Preuitt, Smith (B), Smith (J), Wilson, and Windom -20

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 40. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Liquefied Petroleum Gas Board with certain modifications; and to amend Sections 9-17-101, 9-17-104, 9-17-105, and 9-17-107, Code of Alabama 1975.

was taken up.

The Standing Committee on Economic Affairs reported the following substitute for the Bill, SB 40, to-wit:

SUBSTITUTE FOR SB 40

A BILL TO BE ENTITLED AN ACT

Relating to the Alabama Sunset Law; to continue the existence and

functioning of the Alabama Liquefied Petroleum Gas Board with certain modifications; and to amend Sections 9-17-101, 9-17-104, 9-17-105, and 9-17-107, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the sunset committee recommends the continuance of the Alabama Liquefied Petroleum Gas Board, with the additional recommendations for statutory changes of the board as set out in Section 3 of this act.

Section 2. The existence and functioning of the Alabama Liquefied Petroleum Gas Board, created and functioning pursuant to Sections 9-17-100 to 9-17-110, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Sections 9-17-101, 9-17-104, 9-17-105, and 9-17-107 of the Code of Alabama 1975, are amended to read as follows:

"§9-17-101.

"(a) There is hereby created and established the Alabama liquefied petroleum gas board. Such board shall be composed of seven members: the state fire marshal; the state director of public safety; the president of the Alabama public service commission; and four members who are representatives of the liquefied petroleum gas retail Class A permit holders.

"(b) Members of the board who are representatives of the liquefied petroleum gas retail permit holders shall have been legal residents of the state of Alabama for at least five years next preceding the date of appointment and shall have been actively engaged in the retail distribution of liquefied petroleum gas in this state for a period of at least five years. No retail Class A permit holder shall have more than one representative on the board at any one time. It is the legislative intent that no single corporation or partnership comprised of separate entities within the state, whether or not separately licensed, be represented on the board by more than one representative at any one time.

"(c) From each of four substantially equal geographical areas of the state, designated as the southeast, the northeast, the northwest and the southwest, the governor shall appoint one retail permit holder member of the board. Such member shall be appointed from a list of at least

three nominees receiving the largest number of votes according to written ballots executed by representatives of retail Class A permit holders.

"(d) In the event the governor has not appointed a board member at the end of 90 days after the list of retail permit holders has been submitted to him, the person on the list having the most votes shall become the board member. In the event of a tie for the most votes a majority vote of the board members will select which person of those tied will become the board member.

~~"(e) In the event a vacancy occurs during a board member's term, the three then eligible retail permit holders having received the most votes from the election which was held to select the board member for which the vacancy occurred shall be submitted to the governor for his appointment. In the event an appointment has not been made in 90 days, the same process shall be used for the election as in the above paragraph. the administrator shall call an election to fill the vacancy and the election shall be held and conducted pursuant to subsection (f). When an elected board member sells his or her LP-gas business or for any reason is no longer actively engaged in the day-to-day operation of an LP-gas business, his or her seat on the board shall be automatically vacated by the completion of the next regularly scheduled board meeting.~~

"(f) The balloting for board members, successor members, and filling vacancies for an unexpired term of office shall be conducted by the administrator of the board under the direction and supervision of the board. For such appointments and vacancies, the administrator shall forward by registered or certified mail an official ballot to each retail permit holder or his duly designated representative with instructions for executing the ballot and returning it to the board. The terms of all such board members shall be for ~~four~~ six years, including members serving on the effective date of the act adding this clause but no member shall be denied the right to succeed himself, provided however, no member shall serve more than two consecutive terms of office.

"(g) The board shall elect its own chairman and vice-chairman at its first regular meeting each calendar year. All meetings of the board shall be held at Montgomery, Alabama and shall be on a prescribed date, at least quarterly, and at such time as a majority of the board members may request in writing to the board chairman. Any four members shall constitute a quorum for the transaction of any business which may come before the board. The board shall have the power to adopt bylaws and rules of administrative procedure, pursuant to the state administrative procedure statutes.

"(h) The board shall have the power and authority to promulgate rules and regulations having the force and effect of law to carry out the provisions of this article.

"§9-17-104.

"(a) The board shall appoint an administrator and have power over his dismissal and shall fix his compensation. Before entering upon the duties of his office, such officer shall make and file with the secretary of state an official bond in an amount to be fixed by the board, premiums on which shall be paid out of funds of the board. Said bond shall be payable to the state of Alabama and shall be written by an approved insurance company qualified to do business in the state of Alabama. The board shall prescribe the duties of the administrator of the board and shall adopt a seal which shall be in the care and custody of the administrator. The board shall have authority, subject to the provisions of the merit system, to employ such assistants and inspectors as may be necessary to carry out the provisions of this article and shall prescribe their duties. Also, the board may, without regard to the Merit System Act, engage and employ such consultants and technical advisors as it may deem necessary in carrying out its responsibilities.

"(b) The administrator and duly appointed inspectors employed by the liquefied petroleum gas board shall be and are hereby constituted peace officers of the state of Alabama and are clothed with the powers of peace officers and deputy sheriffs, and may exercise such powers anywhere within the state. They shall be authorized and empowered to arrest violators of the Alabama liquefied petroleum gas fuel tax laws, sections 40-17-160 through 40-17-166, and any state law or federal law or regulation adopted by the liquefied petroleum gas board relating to the transportation of liquefied petroleum gas and to carry such violators before the district court in the county in which the violation is committed. In addition, the board administrator and the board inspectors shall have the powers and authority to issue a uniform traffic citation to any person violating the provisions of said sections 40-17-160 through 40-17-166 and any state law or federal law or regulation adopted by the liquefied petroleum gas board relating to the transportation of liquefied petroleum gas.

"(c) All fees and penalties collected under the provisions of this article or otherwise inuring to the credit of the board shall be deposited in the state treasury in a fund to be designated the 'liquefied petroleum gas board fund,' which fund is hereby established. All expenditures from said fund shall be subject to the terms, conditions, provisions and limitations of Title 41, chapter 4, article 4. All balances in said fund in

excess of ~~\$100,000.00~~ two hundred thousand dollars (\$200,000) at the end of each fiscal year shall be transferred to the state general fund.

"§9-17-105.

"(a) The board shall have the power to issue permits to any person to engage in or continue in the business of selling, distributing, storing or transporting liquefied petroleum gases and to engage in or continue in the business of selling, installing, servicing, repairing or adjusting liquefied petroleum gas containers, tanks or systems or to perform magnetic, hydrostatic or X-ray inspections of liquefied petroleum gas storage containers, cargo tanks and cylinders in the state of Alabama; and to prescribe the requirements of such person to obtain such permits. The board shall have the power to revoke any such permit issued, for cause, in the opinion of the board.

"(b) The permits shall be of seven types:

"(1) PERMIT A. Shall give the holder a right to engage in or continue in the business of selling, distributing, storing or transporting liquefied petroleum gases and to engage in or continue in the business of selling, installing, servicing, repairing or adjusting liquefied petroleum gas containers, tanks or systems at retail. Before any person shall engage in or continue in the business of selling, distributing, storing or transporting liquefied petroleum gases, except where the liquefied petroleum gas so handled is in quantities of less than one gallon U.S. water capacity and is an integral part of a device for its utilization, or before any person shall engage in the business of selling, installing, servicing, repairing or adjusting liquefied petroleum gas containers, tanks or systems at retail in the state of Alabama, such person shall first obtain from the board a Permit A and shall execute and file with the board a bond and the insurance herein required.

"The board shall require every applicant for Permit A to present evidence to the board that he has a bona fide contract or a letter of intent to sell, from a reputable supplier of liquefied petroleum gas for an amount of such gases that is sufficient to supply the customers he has estimated that he will serve. In addition to the requirement of possessing a Class A permit, persons doing business as or in a name other than the name listed on the Class A permit shall be required to have a separate Class B-1 permit unless the person doing business as or in another name has a separate Class A permit for each such business.

"(2) PERMIT B. Shall give the holder a right to engage in or continue in business of transporting, storing, distributing and/or selling

liquefied petroleum gas at wholesale or in unit quantities of 5,000 gallons or more at retail to end users or act as wholesaler distributors, suppliers or agents thereof or act as a consignor or shipper that delivers or causes LP-gas to be delivered in the state of Alabama. Before any person shall engage in or continue in the business of transporting, storing, distributing and/or selling liquefied petroleum gas at wholesale in any quantity to retailers or to retail to end users in unit quantities of 5,000 gallons or more or to other wholesaler distributors, suppliers or agents thereof in the state of Alabama and not being a holder of a Permit A, such person shall first obtain from the board a Permit B and shall execute and file a bond and the insurance required herein except that those wholesale distributors, suppliers, consignors, shippers or agents thereof who only sell liquefied petroleum gas at wholesale and transport no such gas in the state shall not be required to file a motor vehicle or general liability certificate of insurance with the board. Class B permit holders shall keep records and shall report monthly and at such other times as the board shall deem necessary all sales of liquefied petroleum gas made to retailers, end users and to other wholesale distributors, suppliers or agents thereof in this state. Failure to make timely reports and pay required fees shall require interest and penalties to be assessed as described in section 9-17-109. Any person possessing a valid Class A permit shall not be required to obtain a Class B permit.

"(3) PERMIT B-1. Shall give the holder a right to operate an individual branch, division, subdivision or act as an agent of a Class A permit holder to engage in or continue in the business of selling, storing or transporting liquefied petroleum gases at retail and to engage in or continue in the business of selling, installing, servicing, repairing or adjusting liquefied petroleum gas containers, tanks or systems at retail. Authorized agents of Class B-1 permit holders who only operate off-premise cylinder filling stations shall not be required to obtain a Class B-1 permit.

"The board or the board administrator may authorize any person to act as an agent of a Class A or B-1 permit holder to install, service, repair, adjust or inspect liquefied petroleum gas containers, tanks and systems without obtaining a Class B-1 permit; provided that such authorized agents shall have completed the board's certification requirements and the said permit holder shall have provided the board with proof that such agents have met the insurance and surety bond requirements of section 9-17-105. Such authorized agents shall not be required to meet the storage requirements of section 9-17-107.

"Before any person shall engage in or continue in the operation of an individual branch, division, subdivision or act as an agent of a valid

Class A permit holder to sell, store, transport liquefied petroleum gas and to sell, install, service, repair or adjust liquefied petroleum gas containers, tanks and systems at retail, said person must first obtain from the board a Permit B-1 and shall meet the minimum storage requirements set out in section 9-17-107 and shall execute and file with the board a bond and the insurance herein required. Branches that were in operation when this article became law shall not be required to meet the storage requirement of section 9-17-107. Class B-1 permit holder shall not be required to file or maintain separate or additional insurance or bond contracts as specified by this section provided that the Class B-1 permit holder is included in the parent company's Class A permit insurance and bond contract on file with the board.

"(4) PERMIT C. Shall give the holder a right to engage in or continue in the business of installing, servicing, repairing or adjusting liquefied petroleum gas piping and installing, servicing, repairing or adjusting liquefied petroleum gas appliances on the down stream side of the tank outlet valves only, or to perform magnetic, hydrostatic, or X-ray inspections of liquefied petroleum gas storage containers, cargo tanks and cylinders. Before any person shall engage in or continue in the business of installing, servicing, repairing or adjusting liquefied petroleum gas piping, and installing, servicing, repairing or adjusting liquefied petroleum gas appliances on the down stream side of the tank outlet valves only, or in performing magnetic, hydrostatic or X-ray inspections of liquefied petroleum gas storage containers, cargo tanks and cylinders in the state of Alabama and not being a holder of a Permit A, such person shall first obtain from the board a Permit C and execute and file with the board a bond and the insurance herein required.

"(5) PERMIT D. Shall give the holder a right to engage in or continue in the business of installing and/or repairing of bulk storage systems of 5,000 gallons water capacity or more in single containers or in an aggregate of 5,000 gallons water capacity of a multi-container installation only. Before any person shall engage in or continue in the business of installing bulk storage systems of 5,000 gallons water capacity or more in single containers or in a multi-container installation of an aggregate of 5,000 gallons water capacity, in the state of Alabama and not being a holder of a Permit A, such person shall first obtain from the board a Permit D and shall execute and file with the board a bond and the insurance herein required.

"The board shall require holders of a Permit D to submit plans for any proposed installation of any liquefied petroleum gas storage facility he is planning to install that is authorized under the terms of his permit. He must obtain approval for the location and for the plans from the

administrator of the board before construction is begun. All such facilities must be constructed according to rules and regulations of the board and the completed unit must have board approval before being used. A minimum fee of \$200.00 must be paid to the board at the time the plans for each facility are presented for approval. This fee of \$200.00 will cover examination of the plans and one site inspection. An additional fee of \$50.00 for each inspection trip to the site that is required shall be paid to the board before final approval is given for the facility to be used. These fees may be changed by action of the board.

"(6) PERMIT E. Shall give the holder a right to engage in or continue in the business of calibration and/or repair of liquefied petroleum gas liquid meters.

"Before any person shall engage in or continue in the business of calibration and/or repair of liquefied petroleum gas liquid meters, in the state of Alabama and not being a holder of a Permit A, such person shall first obtain from the board a Permit E and shall execute and file with the board a bond and the insurance herein required.

"(7) PERMIT F. Shall give the holder the right to engage in or continue in the business of filling cylinders and/or motor fuel containers of less than 351 pounds water capacity from a stationary filling station. Before any person shall engage in or continue in the business of filling cylinders and/or motor fuel containers and not being a holder or an agent of a Permit A or Permit B-1, they must first obtain from the board a Permit F and shall execute and file with the board a bond and insurance herein required. A separate permit, bond and insurance certificate shall be required for each filling station.

"(8) The administrator may issue temporary Class B, B-1 C, D, E and F permits as soon as all requirements have been met. The temporary permit shall remain in effect until the next regular board meeting unless the board extends the effective date of any such temporary permit by official action.

"(c) The required bond for Permits A, B, B-1, C, D, E and F shall be in the sum of \$5,000.00 payable to the state of Alabama, and conditioned on the full compliance with the provisions of this article. Said bond shall be written by an insurance company qualified to do business in the state of Alabama. In lieu of such surety bond a personal bond in the amount of \$5,000.00 may be used; provided, that the same is secured by bonds or other obligation of the state of Alabama or the United States government of equal value. Surety bonds issued by insurance companies shall be filed on a form provided by the board.

When personal bonds in the form of cash or other obligations of equal values are used in lieu of evidence of the required surety bond herein, such personal bond shall remain on deposit in the state treasury in the liquefied petroleum gas board personal bond fund for at least 365 days after the board has received a surety bond payable to the state of Alabama written by an insurance company qualified to do business in the state of Alabama. If after said 365 days have lapsed and there are no claims against the personal bond, the board administrator shall be authorized to issue a refund of said bond after proper application has been submitted. When the administrator has determined that there are claims against the personal bond, there shall be a third party hearing by an administrative law judge in the office of the attorney general to adjudicate the matter. When the appeal time has lapsed after an administrative hearing where such personal bond is determined to be in default, the administrator shall transfer monies from the personal bond fund to the liquefied petroleum gas board fund.

"(d) An applicant for any of the seven permits shall also file with the board evidence that he has in force such of the hereinafter listed insurance coverage written on standard contract forms by an insurance company or companies qualified to do business in the state of Alabama based upon those of the activities listed above in which he is engaged,

"For Class A, B and B-1 Permits: E Permits for performing calibration, and inspections of L.P. Gas Meters on site:

Insurance	Each Occurrence	Each Person
Comprehensive Automobile Liability covering:		
(Bodily injury liability)	100,000	50,000
(Property damage liability)	100,000	
Comprehensive General Liability Covering:		
(Bodily injury liability)		
(Manufacturers and Contractors liability)	100,000	
(Owners and Contractors protection liability)		
(Completed operations and products liability)		

For Class C, D and F Permits: and E permits only for performing in-shop repairs to LP-Gas meters;

Insurance	Each Occurrence
Comprehensive General Liability Covering:	
(Bodily injury liability)	100,000
(Manufacturers and Contractors liability)	
(Owners and Contractors Protection liability)	
(Completed operations and products liability)	

"(e) In lieu of filing with the board evidence that such insurance coverage, as outlined above, is in force, such person may file with the board a good and sufficient surety bond executed by an insurance company qualified to do business in this state in an amount of \$100,000.00, which bond shall be payable to the state of Alabama and shall be conditioned to guarantee the payment of all damages which proximately result from any act of negligence on the part of such person or his agents, servants or employees while engaging in any of the activities specified in this section. In lieu of such surety bond, any such person may execute and file a good and sufficient personal bond in the amount and conditioned as above specified, which said personal bond shall be secured by bonds or other obligations of the state of Alabama or the United States government of equal value. Evidence of required insurance issued by an insurance company shall be filed on a form provided by the board. When a surety bond, personal bond or other obligations of equal value is used in lieu of evidence of required insurance coverage herein, the surety bond, personal bond or other obligation of equal value shall remain on deposit in the state treasury in the liquefied petroleum gas board personal bond fund until at least 365 days has lapsed and there are no claims against said bonds or obligations of equal value, the administrator shall be authorized to issue a refund of said bonds or obligations of equal value from said bond fund after proper application has been submitted. When the administrator has notice of a claim filed against the monies or other obligations of equal value held in lieu of an insurance contract, the administrator shall deliver to the court, interplead and deposit with the court the amount of money or obligations so held and the administrator and the liquefied petroleum gas board shall thereupon be discharged from liability as to any such claim and the action shall continue as between the claimants of such monies or properties. If the matter is adjudicated before said 365 days has lapsed, the court shall return any balance of any money or obligation to the liquefied petroleum gas board personal bond fund.

"(f) Any state, county, or any incorporated municipality or agency, or instrumentality thereof and any industrial user who makes application and possesses a Class C Permit shall not be required to file with the board a surety bond, provided that all of the servicing, repairing, adjusting and installing of LP-gas equipment, appliances and systems is only being accomplished on their own LP-gas equipment, appliances and systems.

"(g) There is hereby created in the state treasury a fund to be designated as the 'liquefied petroleum gas board personal bond fund' into which cash bonds or other obligations shall be deposited and from which such bonds shall be removed or refunded by the administrator at the appropriate time. The monies or other obligations in said bond fund shall not revert to the general fund at the end of each state fiscal year but shall be carried over into each subsequent state fiscal year and shall be disbursed as provided in this section.

"(h) Whenever a Class A, B or B-1 permit holder's company name has changed, all vehicles and equipment assigned to said company shall be relettered with the new company name as follows: by the annual renewal of the company permit or within 180 days of said name change, whichever is greater, provided for good cause shown the board may extend said date by official action. Unmarked LP-gas delivery cargo vehicles or equipment placed in operation shall be lettered and placarded as required by the applicable section of the Code of Federal Regulations, Title 49, within 90 days of the date said vehicle was first placed into operation within this state. Vehicles and equipment not lettered with the company name within the described period shall be removed from service until such time as the proper company name is affixed to the vehicle or equipment by the owner.

"(i) Counties, municipalities or other local entities are hereby prohibited from requiring any further local testing or other requirements of LP-gas servicemen, certified by the LP-gas board, subject to the payment of any applicable local privilege, license or business fees or charges.

"§9-17-107.

"(a) The board shall require that every applicant for a Permit A have located within the state of Alabama a minimum of 30,000 (water gallon capacity) gallons storage capacity for liquefied petroleum gases. Class B-1 permit holders shall be required to have a minimum of 18,000 (water gallon capacity) gallons storage capacity of liquefied petroleum gas. However, persons who are valid agents of a Class A permit holder

who sell only welding gases that qualify as liquid petroleum gas under Section 9-17-100, shall be exempt from the minimum storage requirements under this section.

"(b) If the 30,000 gallon (water capacity) storage consists of more than one container, then no storage container in any installation used to meet this requirement of the law shall be a size less than 6,000 gallon (water capacity) and the storage capacity required by this section of the law shall be within close proximity to the area serviced and used by the applicant to service his customers in the state of Alabama.

"(c) The board shall require that such person shall submit plans for the proposed bulk storage facility to the office of the board and obtain approval by the administrator of such plans before construction is begun. All such facilities must be constructed according to rules and regulations of the board and the completed unit must have board approval before being used.

"(d) If the holder of a Permit A or Permit B-1 submits plans to the board for a storage plant that shall remain his property even though the plant be at a customer's site or if the plant to be built is to be used as part of his own distribution system, then there will be no additional fees for approval and inspection of this facility; however, if this permit holder undertakes to install a bulk storage system of 5,000 gallons water capacity or more in single containers or in multi-container installation of an aggregate of 5,000 gallons water capacity, he must obtain approval for the location and for the plans from the administrator of the board before construction is begun. When plans for the bulk storage plant described above are submitted to the board for approval, a fee of \$200.00 must be paid at the same time. This fee of \$200.00 will cover examination of the plans and one site inspection. An additional fee of \$50.00 for each inspection trip to the site, that is required, shall be paid to the board before final approval is given for the facility to be used. These fees may be changed by the board."

Section 4. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

Yeas 22 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, Denton, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuit, Smith (B), Smith (J), Wilson, and Windom -22

Nays:

- 0

On motion of Senator Corbett, the Rules were suspended and further consideration of the Bill, SB 40, was postponed subject to the call of the Chair.

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 47, adopted.

Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Ghee, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuit, Smith (B), Wilson, and Windom -21

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 47. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Auctioneers with certain modifications; to amend Sections 34-4-21, 34-4-29, and 34-4-50, Code of Alabama 1975.

was taken up.

On motion of Senator Corbett, the Rules were suspended and further consideration of the Bill, SB 47, was postponed subject to the call of the Chair.

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 49, adopted.

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Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Ghee, Hale, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, and Smith (B) -19

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 49. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Department of Insurance with certain modifications; to amend Sections 27-4-2, 27-7-7, 27-7-11, 27-7-18, 27-7-19, 27-7-23, 27-8-7, 27-8-15 and 27-8-16, Code of Alabama 1975.

was taken up.

Senator Owens offered the following substitute for the Bill, SB 49, to-wit:

SUBSTITUTE FOR SB 49

**A BILL
TO BE ENTITLED
AN ACT**

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Department of Insurance.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the sunset committee recommends the continuance of the Department of Insurance.

Section 2. The existence and functioning of the Department of Insurance, created and functioning pursuant to Section 27-2-1 specifically and Title 27, generally, Code of Alabama 1975, is hereby continued, and said code section and title are hereby expressly preserved.

Section 3. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1 and 2 of this act.

Section 4. The provisions of this act are severable. If any part of

this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

Yeas 18 Nays 4

Yeas:

Senators:

Bailey, Barron, Bedsole, Bolling, Denton, Dial, Ghee, Hale, Horn, Lindsey, Lipscomb, Little, Mitchell, Owens, Preuitt, Smith (B), Smith (J), and Windom -18

Nays:

Senators:

Bennett, Campbell, Corbett, and Parsons

- 4

And said Bill, SB 49, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 20 Nays 0

Yeas:

Senators:

Bailey, Bennett, Bolling, deGraffenried, Dial, Floyd, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Parsons, Preuitt, Smith (B), Smith (J), and Windom -20

Nays:

- 0

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 41. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Telecommunications Division of the Department of Finance with certain modifications; to amend Section 41-4-284, Code of Alabama 1975, to require the destruction of all telephone records two months following the payment of the billing for

the telephone usage.

JIM PREUITT,
Chairperson.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 45. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Heating and Air Conditioning Contractors with certain modifications; to amend Sections 34-31-18, 34-31-21, 34-31-25, 34-31-26, 34-31-28, 34-31-29, and 34-31-32, Code of Alabama 1975.

JIM PREUITT,
Chairperson.

FURTHER CONSIDERATION OF SB 40

The Senate proceeded to further consideration of the Bill, SB 40, as amended by the substitute.

And said Bill, SB 40, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 18 Nays 0

Yeas:

Senators:

Bennett, Bolling, Corbett, deGraffenried, Dial, Floyd, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Preuitt, Smith (B), and Smith (J)

-18

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 100, adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Bennett, Bolling, Corbett, Dial, Floyd, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Preuitt, Smith (B), and Smith (J) -18

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 100. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Plumbers and Gas Fitters Examining Board with certain modifications; to amend Sections 34-37-6, 34-37-8, 34-37-9, 34-37-12, and 34-37-15, Code of Alabama 1975, so as to provide minimum times for holding a lower classification before being examined for certification as a journeyman plumber, master plumber, or master pipe fitter; extend the time period for certification without an examination (grandfather clause); require the board to adopt a program of continuing education by October 1, 1994; require the board to adopt a late renewal penalty and levy administrative fines; and permit property owners to perform plumbing work on their own property.

was taken up.

The Standing Committee on Economic Affairs reported the following substitute for the Bill, SB 100, to-wit:

SUBSTITUTE FOR SB 100

A BILL TO BE ENTITLED AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Plumbers and Gas Fitters Examining Board with certain modifications; to amend Sections 34-37-6, 34-37-8, 34-37-9, 34-37-12, and 34-37-15, Code of Alabama 1975, so as to provide minimum times for holding a lower classification before being examined for certification as a journeyman plumber, master plumber, or master pipe fitter; extend the time period for certification without an examination (grandfather clause); require the board to adopt a program of continuing education by October 1, 1994; require the board to adopt a late renewal penalty and levy administrative fines; and permit property owners to

perform plumbing work on their own property.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the sunset committee recommends the continuance of the Plumbers and Gas Fitters Examining Board, with the additional recommendations for statutory changes of the board as set out in Section 3 of this act.

Section 2. The existence and functioning of the Plumbers and Gas Fitters Examining Board, created and functioning pursuant to Sections 34-37-1 to 34-37-18, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Sections 34-37-6, 34-37-8, 34-37-9, 34-37-12, and 34-37-15 of the Code of Alabama 1975, are amended to read as follows:

"§34-37-6.

"(a) It shall be unlawful for any person, firm or corporation to purchase a business license or to do or perform, or to contract, direct or superintend any plumbing or gas fitting within any incorporated city or town or county of this state unless such person has first received a certificate of competency, hereinafter referred to as "certificate," and unless such certificate is in force and effect at time such plumbing or gas fitting is done, directed or superintended, except as hereinafter provided.

"(b) It shall be the duty of the board to register every person who may apply for an apprentice plumber or gas fitter registration certificate upon forms provided by the board, upon his first paying all fees herein prescribed.

"(c) It shall be the duty of the board to examine and pass upon the qualification of every person who may apply for a journeyman's plumber or gas fitter certificate upon forms provided by the board. An applicant for examination for a journeyman's plumber or gas fitter certificate shall submit proof that the applicant has two years of work experience as an apprentice plumber or gas fitter or has completed an apprentice training program approved by the board. Such applicant Applicants for journeyman plumber or gas fitter shall be examined, orally or in writing, upon the fundamentals of plumbing or gas fitting; the theory and practice of plumbing installation and construction or gas fitting work, and the experience and ability of the applicant in practical plumbing installation and construction or gas fitting work; and if such applicant be found to possess an accurate knowledge of the theory and

correct practice of plumbing installation and construction or gas fitting work, and sufficient experience and ability in plumbing installation and construction or gas fitting work to safely and competently apply his knowledge and practice, the board shall issue to him a certificate, upon his first paying all fees herein prescribed. Such examination shall be administered by an independent examining agency.

"(d) It shall be the duty of said board to examine and pass upon the qualifications of every person who may apply for a master's plumber or gas fitter certificate upon forms provided by the board. ~~If such person shows proof of experience as a journeyman plumber, gas fitter, or in other industry related business, as the case may be, he qualifies to take the master's certification examination.~~

"(1) Applicants for examination for a master plumber certificate shall submit proof to the board that the applicant has at least one year of work experience as a journeyman plumber.

"(2) Applicants for examination for a master gas fitter's certificate shall submit proof to the board that the applicant has at least one year of work experience as a gas fitter.

"Such applicant for a master's certificate shall be examined upon his knowledge, training and ability, in the planning, laying out, and supervision of plumbing installation and construction work or gas fitting work; and if such applicant for a master's certificate be found to possess the qualifications hereinabove prescribed, he shall be issued a master's plumber or gas fitter certificate by said board.

"(e) The examination required of an applicant for a certificate as a master plumber or gas fitter or journeyman plumber or gas fitter may be waived by the board as to any person who furnishes satisfactory proof to the board that he is a person of good moral character, and that he has been actively engaged as a master plumber or gas fitter or as a journeyman plumber or gas fitter, and duly licensed as such under the general laws of the state of Alabama, as the case may be, for at least two years, provided that such person files an application in writing for waiver with the board, which application shall be accompanied by an affidavit giving the name or names of persons, firms or corporations, and the addresses thereof, by whom he has been employed, or for whom he has done plumbing work or gas fitting work, during said two years of his engaging in said trade. And, provided further, that said application be filed within 18 months after the passage of this chapter. Except as herein provided in this section, no person shall be issued a certificate without passing the prescribed examination; provided, however, that a person

after having passed said examination, shall not be required to take said examination thereafter in order to secure a certificate in subsequent years. At least four examinations per year shall be conducted, at a time and place prescribed by the board after reasonable notice thereof.

"(f) Certificates may be issued without examination to those persons who have been certified under the general laws of the state as plumbers or gas fitters for at least two years prior to May 2, 1989, or who furnish proof to the board that they have passed an examination substantially equivalent to the board-approved examination prior to May 2, 1989. The board shall determine the passing score and the equivalency of the examination. Application for licensure under this subsection without examination shall not be considered by the board after March 31, 1990 365 days following the effective date of this amendatory act."

"§34-37-8.

"(a) Any person who holds a certificate issued by the board shall be issued a statewide certification upon the renewal of their his or her existing certificate subject to the requirements of subsection (d) and the other requirements of this chapter.

"(b) Any certificate issued by the board shall be acceptable by any city, town or county in the state on or after August 30, 1989, and any existing local statute or ordinance contrary to this provision of this section is hereby repealed, and no other competency certification or examination shall be required of plumbers or gas fitters by any local governmental entity.

"(c) Any current registration or annual certificate issued to any person by the board shall be in possession of such person at any time he or she engages in or proposes to engage as a master, journeyman or apprentice plumber or gas fitter, as the case may be, and upon request he or she shall make such certificate or registration available for inspection and identification by any person or persons for whom he or she engages or proposes to engage as such, and for identification by plumbing, gas or other authorized enforcement personnel of any governmental entity, board or agency when requested.

"(d) The board shall adopt an annual program of continuing education for its certified persons not later than October 1, 1994. After that date, no person shall have his or her certification renewed unless, in addition to any other requirements of this chapter, the minimum annual continuing education requirements are met. The continuing education program shall not include testing or examination of the persons certified

in any manner."

"§34-37-9.

"The board shall set the necessary fees to administer the requirements of this chapter and when adopted, such fee schedule shall be in lieu of any fee schedule heretofore prescribed by said board. The board shall not change the fee schedule to be effective in the middle of a calendar year.

"The certificates provided for herein shall be issued by the board upon the payment of the prescribed fees. All annual certificates shall expire on December 31 of the year in which they are issued. The certificate fees herein prescribed shall be in addition to all privilege or license taxes otherwise levied. Certificates renewed after December 31 shall include the late renewal penalty established by the board.

"All applicants requesting replacement of lost or stolen certificates shall be required to pay a \$5.00 reissuance fee based on the regular fee schedule.

"All persons serving in the armed forces will not be required to pay any back years for a renewal certificate during the calendar year he is released from active military duty. All other persons shall pay back years unless proof satisfactory to the board is furnished indicating that the individual was not employed in such years in the plumbing or gas fitting trade. Section 4. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act."

"§34-37-12.

"The board may revoke or suspend any certificate if obtained through concealment, misstatement or misrepresentation of any material fact in the application for such certificate, or for a willful violation of any law or ordinance pertaining to the business of the holder of such certificates. Before a certificate may be revoked, the holder thereof shall have notice in writing, enumerating the charges against him, and be entitled to a hearing by the board not sooner than five days from receipt of notice. The holder of such certificate shall be given an opportunity to present testimony, oral or written, and right of cross-examination and representation by counsel. All testimony shall be given under oath. The board shall have power to administer oaths, issue subpoenas, and compel the attendance of witnesses.

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"The decision of the board shall be based on the evidence produced at the hearing and made a part of the record thereof. The person whose certificate has been revoked shall not be permitted to apply for a license for one year from the date of revocation.

"Hearings shall be conducted by a hearing officer appointed by the board. Said hearing officer may be a board member, the executive director or such other person as the board may deem fit and proper to hold such hearing. The testimony adduced at said hearing, along with all other proceedings, shall be taken down by a competent stenographer and shall be preserved as a record of the board and shall be open to the public inspection at all reasonable times. A copy of said record so adduced shall be furnished to each member of the board, and no license shall be revoked unless a majority of the board members concur with the revocation of same.

"No annual certificate shall be issued to any certificate holder whose certificate shall have been revoked by the board after such hearing until one year from and after the date of such revocation unless the certificate holder whose certificate shall have been so revoked shall enter into a bond with good and sufficient surety in the penal sum of \$1,000.00 to faithfully comply with the provisions of this chapter and of all rules and regulations and codes adopted by the board, provided, however, that such certificate holder whose certificate shall be so revoked may within five days after such revocation appeal from the board's decision or revocation to the circuit court of the county in which said certificate holder resides, does business or is employed.

"(e) In addition to the other disciplinary powers granted in this section, the board may levy and collect administrative fines for serious violations of this chapter or the rules and regulations of the board of not more than five hundred dollars (\$500) for each violation."

"§34-37-15.

"(a) The following acts, work and conduct may be performed by anyone, without license or certificate, provided, however, that all work and services herein named or referred to shall be subject to an inspection and approval in accordance with the terms of all state laws and applicable municipal ordinances:

"(1) Plumbing work done by a property owner in or about a building owned ~~or~~ and occupied by him or her ~~so long as such plumbing work does not necessitate tying into waste or sewer lines on the outlet side of a trap.~~

"(2) Plumbing or gas fitting work done by anyone who is regularly employed or acting as a maintenance man acting under the supervision of a maintenance engineer or maintenance engineer incidental to and in connection with the business in which he is employed and engaged, provided said plumbing or gas fitting work is done on the premises of said employer, and who does not engage in the occupation of a plumber or gas fitter for the general public.

"(3) Maintenance and reinstallation work done upon the premises or equipment of a railroad, other businesses or industry, by an employee thereof who does not engage in the occupation of a plumber or gas fitter for the general public.

"(4) Plumbing or gas fitting work done by persons engaged by any public utility company in the laying, maintenance and operation of its service mains or lines and the installation, alteration, adjustment, repair, removal and renovation of all types of appurtenances, equipment and appliances, provided such plumbing work does not necessitate tying into waste or sewer lines on the outlet side of a trap or alter gas piping on consumer side of meter.

"(5) Appliances or fixture installations and service work done in connecting appliances or fixtures to existing piping installations. ~~provided, however, that no person other than a plumber as defined by this chapter shall be permitted to install traps, closet combinations or commodes.~~

"(6) Any person may install washing machines to existing piping installation or waste lines, provided such plumbing work does not necessitate tying into waste or sewer lines on the outlet side of the trap.

"(b) the provisions of this chapter shall not apply to any natural gas utility company having fewer than 350 employees that is regulated by the Alabama Public Service Commission."

Section 4. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

On motion of Senator Corbett, said substitute was laid on the table.

Senator Corbett then offered the following substitute for the Bill, SB 100, to-wit:

SUBSTITUTE SB FOR 100

**A BILL
TO BE ENTITLED
AN ACT**

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Plumbers and Gas Fitters Examining Board with certain modifications; to amend Sections 34-37-6, 34-37-8, 34-37-9, 34-37-12, and 34-37-15, Code of Alabama 1975, so as to provide minimum times for holding a lower classification before being examined for certification as a journeyman plumber, master plumber, or master pipe fitter; extend the time period for certification without an examination (grandfather clause); require the board to adopt a program of continuing education by October 1, 1994; require the board to adopt a late renewal penalty and levy administrative fines; and permit property owners to perform plumbing work on their own property.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the sunset committee recommends the continuance of the Plumbers and Gas Fitters Examining Board, with the additional recommendations for statutory changes of the board as set out in Section 3 of this act.

Section 2. The existence and functioning of the Plumbers and Gas Fitters Examining Board, created and functioning pursuant to Sections 34-37-1 to 34-37-18, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Sections 34-37-6, 34-37-8, 34-37-9, 34-37-12, and 34-37-15 of the Code of Alabama 1975, are amended to read as follows:

"§34-37-6.

"(a) It shall be unlawful for any person, firm or corporation to purchase a business license or to do or perform, or to contract, direct or superintend any plumbing or gas fitting within any incorporated city or town or county of this state unless such person has first received a

certificate of competency, hereinafter referred to as "certificate," and unless such certificate is in force and effect at time such plumbing or gas fitting is done, directed or superintended, except as hereinafter provided.

"(b) It shall be the duty of the board to register every person who may apply for an apprentice plumber or gas fitter registration certificate upon forms provided by the board, upon his first paying all fees herein prescribed.

"(c) It shall be the duty of the board to examine and pass upon the qualification of every person who may apply for a journeyman's plumber or gas fitter certificate upon forms provided by the board. An applicant for examination for a journeyman's plumber or gas fitter certificate shall submit proof that the applicant has two years of work experience as an apprentice plumber or gas fitter or has completed an apprentice training program approved by the board. ~~Such applicant~~ Applicants for journeyman plumber or gas fitter shall be examined, orally or in writing, upon the fundamentals of plumbing or gas fitting; the theory and practice of plumbing installation and construction or gas fitting work, and the experience and ability of the applicant in practical plumbing installation and construction or gas fitting work; and if such applicant be found to possess an accurate knowledge of the theory and correct practice of plumbing installation and construction or gas fitting work, and sufficient experience and ability in plumbing installation and construction or gas fitting work to safely and competently apply his knowledge and practice, the board shall issue to him a certificate, upon his first paying all fees herein prescribed. Such examination shall be administered by an independent examining agency.

"(d) It shall be the duty of said board to examine and pass upon the qualifications of every person who may apply for a master's plumber or gas fitter certificate upon forms provided by the board. ~~If such person shows proof of experience as a journeyman plumber, gas fitter, or in other industry related business, as the case may be, he qualifies to take the master's certification examination.~~

"(1) Applicants for examination for a master plumber certificate shall submit proof to the board that the applicant has at least one year of work experience as a journeyman plumber.

"(2) Applicants for examination for a master gas fitter's certificate shall submit proof to the board that the applicant has at least one year of work experience as a gas fitter.

"Such applicant for a master's certificate shall be examined upon

his knowledge, training and ability, in the planning, laying out, and supervision of plumbing installation and construction work or gas fitting work; and if such applicant for a master's certificate be found to possess the qualifications hereinabove prescribed, he shall be issued a master's plumber or gas fitter certificate by said board.

~~"(c) The examination required of an applicant for a certificate as a master plumber or gas fitter or journeyman plumber or gas fitter may be waived by the board as to any person who furnishes satisfactory proof to the board that he is a person of good moral character, and that he has been actively engaged as a master plumber or gas fitter or as a journeyman plumber or gas fitter, and duly licensed as such under the general laws of the state of Alabama, as the case may be, for at least two years, provided that such person files an application in writing for waiver with the board, which application shall be accompanied by an affidavit giving the name or names of persons, firms or corporations, and the addresses thereof, by whom he has been employed, or for whom he has done plumbing work or gas fitting work, during said two years of his engaging in said trade. And, provided further, that said application be filed within 18 months after the passage of this chapter. Except as herein provided in this section, no~~ No person shall be issued a certificate without passing the prescribed examination; provided, however, that a person after having passed said examination, shall not be required to take said examination thereafter in order to secure a certificate in subsequent years. At least four examinations per year shall be conducted, at a time and place prescribed by the board after reasonable notice thereof.

"(f) Certificates may be issued without examination to those persons who have been certified under the general laws of the state as plumbers or gas fitters for at least two years prior to May 2, 1989, or who furnish proof to the board that they have passed an examination substantially equivalent to the board-approved examination prior to May 2, 1989. The board shall determine the passing score and the equivalency of the examination. Application for licensure under this subsection without examination shall not be considered by the board after March 31, 1990 365 days following the effective date of this amendatory act."

"§34-37-8.

"(a) Any person who holds a certificate issued by the board shall be issued a statewide certification upon the renewal of ~~their~~ his or her existing certificate subject to the requirements of subsection (d) and the other requirements of this chapter.

"(b) Any certificate issued by the board shall be acceptable by

any city, town or county in the state on or after August 30, 1989, and any existing local statute or ordinance contrary to this provision of this section is hereby repealed, and no other competency certification or examination shall be required of plumbers or gas fitters by any local governmental entity.

"(c) Any current registration or annual certificate issued to any person by the board shall be in possession of such person at any time he or she engages in or proposes to engage as a master, journeyman or apprentice plumber or gas fitter, as the case may be, and upon request he or she shall make such certificate or registration available for inspection and identification by any person or persons for whom he or she engages or proposes to engage as such, and for identification by plumbing, gas or other authorized enforcement personnel of any governmental entity, board or agency when requested.

"(d) The board shall adopt an annual program of continuing education for its certified persons not later than October 1, 1994. After that date, no person shall have his or her certification renewed unless, in addition to any other requirements of this chapter, the minimum annual continuing education requirements are met. The continuing education program shall not include testing or examination of the persons certified in any manner."

"§34-37-9.

"The board shall set the necessary fees to administer the requirements of this chapter and when adopted, such fee schedule shall be in lieu of any fee schedule heretofore prescribed by said board. The board shall not change the fee schedule to be effective in the middle of a calendar year.

"The certificates provided for herein shall be issued by the board upon the payment of the prescribed fees. All annual certificates shall expire on December 31 of the year in which they are issued. The certificate fees herein prescribed shall be in addition to all privilege or license taxes otherwise levied. Certificates renewed after December 31 shall include the late renewal penalty established by the board.

"All applicants requesting replacement of lost or stolen certificates shall be required to pay a \$5.00 reissuance fee based on the regular fee schedule.

"All persons serving in the armed forces will not be required to pay any back years for a renewal certificate during the calendar year he

is released from active military duty. All other persons shall pay back years unless proof satisfactory to the board is furnished indicating that the individual was not employed in such years in the plumbing or gas fitting trade.

Section 4. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act."

"§34-37-12.

"The board may revoke or suspend any certificate if obtained through concealment, misstatement or misrepresentation of any material fact in the application for such certificate, or for a willful violation of any law or ordinance pertaining to the business of the holder of such certificates. Before a certificate may be revoked, the holder thereof shall have notice in writing, enumerating the charges against him, and be entitled to a hearing by the board not sooner than five days from receipt of notice. The holder of such certificate shall be given an opportunity to present testimony, oral or written, and right of cross-examination and representation by counsel. All testimony shall be given under oath. The board shall have power to administer oaths, issue subpoenas, and compel the attendance of witnesses.

"The decision of the board shall be based on the evidence produced at the hearing and made a part of the record thereof. The person whose certificate has been revoked shall not be permitted to apply for a license for one year from the date of revocation.

"Hearings shall be conducted by a hearing officer appointed by the board. Said hearing officer may be a board member, the executive director or such other person as the board may deem fit and proper to hold such hearing. The testimony adduced at said hearing, along with all other proceedings, shall be taken down by a competent stenographer and shall be preserved as a record of the board and shall be open to the public inspection at all reasonable times. A copy of said record so adduced shall be furnished to each member of the board, and no license shall be revoked unless a majority of the board members concur with the revocation of same.

"No annual certificate shall be issued to any certificate holder whose certificate shall have been revoked by the board after such hearing until one year from and after the date of such revocation unless the certificate holder whose certificate shall have been so revoked shall enter into a bond with good and sufficient surety in the penal sum of \$1,000.00 to faithfully comply with the provisions of this chapter and of

all rules and regulations and codes adopted by the board, provided, however, that such certificate holder whose certificate shall be so revoked may within five days after such revocation appeal from the board's decision or revocation to the circuit court of the county in which said certificate holder resides, does business or is employed.

"(e) In addition to the other disciplinary powers granted in this section, the board may levy and collect administrative fines for serious violations of this chapter or the rules and regulations of the board of not more than five hundred dollars (\$500) for each violation."

"§34-37-15.

"(a) The following acts, work and conduct may be performed by anyone, without license or certificate, provided, however, that all work and services herein named or referred to shall be subject to an inspection and approval in accordance with the terms of all state laws and applicable municipal ordinances:

"(1) Plumbing work done by a property owner in or about a building owned ~~or~~ and occupied by him or her ~~so long as such plumbing work does not necessitate tying into waste or sewer lines on the outlet side of a trap.~~

"(2) Plumbing or gas fitting work done by anyone who is regularly employed or acting as a maintenance man acting under the supervision of a maintenance engineer or maintenance engineer incidental to and in connection with the business in which he is employed and engaged, provided said plumbing or gas fitting work is done on the premises of said employer, and who does not engage in the occupation of a plumber or gas fitter for the general public.

"(3) Maintenance and reinstallation work done upon the premises or equipment of a railroad, other businesses or industry, by an employee thereof who does not engage in the occupation of a plumber or gas fitter for the general public.

"(4) Plumbing or gas fitting work done by persons engaged by any public utility company in the laying, maintenance and operation of its service mains or lines and the installation, alteration, adjustment, repair, removal and renovation of all types of appurtenances, equipment and appliances, provided such plumbing work does not necessitate tying into waste or sewer lines on the outlet side of a trap or alter gas piping on consumer side of meter.

"(5) Appliances or fixture installations and service work done in

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connecting appliances or fixtures to existing piping installations. ~~provided, however, that no person other than a plumber as defined by this chapter shall be permitted to install traps, closet combinations or commodes.~~

"(6) Any person may install washing machines to existing piping installation or waste lines, provided such plumbing work does not necessitate tying into waste or sewer lines on the outlet side of the trap.

"(b) the provisions of this chapter shall not apply to any natural gas utility company having fewer than 350 employees that is regulated by the Alabama Public Service Commission."

Section 4. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Bennett, Bolling, Corbett, Dial, Floyd, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Mitchell, Owens, Preuit, Smith (B), Smith (J), and Windom -18

Nays:

- 0

And said Bill, SB 100, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 18 Nays 0

Yeas:

Senators:

Bedsole, Bennett, Bolling, Corbett, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Mitchell, Preuit, Smith (B), Smith (J), and Windom -18

Nays:

- 0

MOTION TO ADJOURN LOST

At 2:55 P.M., Senator Hilliard moved that the Senate adjourn until Wednesday, March 4, 1992, at 2 o'clock P.M., which motion was lost.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 40. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Liquefied Petroleum Gas Board with certain modifications; and to amend Sections 9-17-101, 9-17-104, 9-17-105, and 9-17-107, Code of Alabama 1975.

JIM PREUITT,
Chairperson.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 38. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Social Work Examiners with certain modifications; to amend Sections 34-30-4, 34-30-22, 34-30-50, and 34-30-52, Code of Alabama 1975.

JIM PREUITT,
Chairperson.

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 50, adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Floyd, Foshee, Ghee, Langford, Lindsey, Lipscomb, Mitchell, Parsons,

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Preuitt, Smith (B), and Smith (J) -18

Nays: - 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 50. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Real Estate Appraisers Board with certain modifications; to amend Sections 34-27A-13, 34-27A-15, and 34-27A-20, Code of Alabama 1975.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Floyd, Foshee, Ghee, Langford, Mitchell, Parsons, Preuitt, Sanders, Smith (B), Smith (J), and Windom -18

Nays: - 0

MOTION TO ADJOURN LOST

At 3:05 P.M., Senator Hale moved that the Senate adjourn until Wednesday, March 4, 1992, at 2 o'clock P.M., which motion was lost.

Yeas 7 Nays 13

Yeas:

Senators:

Bedsole, Foshee, Hale, Hilliard, Parsons, Smith (B), and Smith (J) - 7

Nays:

Senators:

Bailey, Bennett, Bolling, Campbell, Corbett, deGraffenried, Floyd, Ghee, Langford, Lindsey, Little, Mitchell, and Windom -13

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 53, adopted.

Yeas 21 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried,

Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Little, Mitchell,
Mitchem, Parsons, Preuitt, Smith (B), Smith (J), and Wilson -21

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 53. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Indian Affairs Commission with certain modifications; to amend Sections 41-9-708, 41-9-712, 41-9-713, 41-9-715, and 41-9-716, Code of Alabama 1975.

was taken up.

The Standing Committee on Economic Affairs reported the following substitute for the Bill, SB 53, to-wit:

SUBSTITUTE FOR SB 53

**A BILL
TO BE ENTITLED
AN ACT**

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Indian Affairs Commission with certain modifications; to amend Sections 41-9-708, 41-9-712, 41-9-713, 41-9-715, and 41-9-716, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the sunset committee recommends the continuance of the Alabama Indian Affairs Commission, with the additional recommendations for statutory changes of the commission as set out in Section 3 of this act.

Section 2. The existence and functioning of the Alabama Indian Affairs Commission, created and functioning pursuant to Sections 41-9-708 to 41-9-717, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Sections 41-9-708, 41-9-712, 41-9-713, 41-9-715, and 41-9-716 of the Code of Alabama 1975, are amended to read as follows:

"§41-9-708.

"(a) There is hereby created and established the Alabama Indian affairs commission hereinafter called the commission, which shall be administered under the direction and supervision of the joint committee on administrative regulations, as provided by section 41-22-22.

"(b) The commission shall be composed of at least 11 members. All members of the commission must reside in Alabama. Members shall include a member of the state senate, appointed by the lieutenant governor, and a member of the house of representatives, appointed by the speaker of the house of representatives, seven Indian representatives from the seven tribes, bands, or groups in the state of Alabama, and one member at large. The governor shall appoint seven Indian members from recommendations submitted by each of the seven Indian tribes, bands or groups, principally geographically located as follows: The Poarch Band of Creeks of Escambia county, one member; the Mowa Band of Choctaws of southwest Alabama, one member; the Star Clan of Muscogee Creeks of Pike county, one member; the Echota Cherokees of Alabama, one member; the Cherokees of northeast Alabama, one member; the Cherokees of southeast Alabama, one member; and the Ma-Chis Lower Creek Indian Tribe, one member. Each of the seven identified groups shall have one member. The commission shall appoint one Alabama resident, who is a member of a federally recognized Indian tribe, band or group, that is not a member of any tribe represented on this commission. The governor shall appoint one member at large, who may be Indian or non-Indian; provided, however, that the majority of the members of the commission shall always be Indian. All above stated tribes, bands, and groups shall be state recognized upon passage of this article. The commission shall have the power to recognize additional Indian tribes, bands, or groups. The commission shall adopt appropriate procedure for such recognition process. Any recognized Indian tribe, band, or group shall be entitled to have one representative on the commission who shall be appointed for an initial term of three years by the governor and subject thereafter to the same requirements and privileges as specified in subsections (b) and (c) and any other applicable sections. Said member shall be granted the same voting powers accorded other members.

"(c) The commission shall elect a chairman of the commission from among its members. Members serving by virtue of their office within state government shall serve so long as they hold that office. The terms of office for all other members shall be for four years each, except for the initial appointments which shall be as follows: Four members for two years; two members for three years; and two members for four

years. The initial term of office for persons who are granted membership upon the recognition of their tribe, band, or group by the commission shall be as provided in subsection (b). The initial term and all subsequent terms of office of the member representing the Ma-Chis Lower Creek Indian Tribe shall be four years. Each member shall serve until his successor is appointed. Members shall be eligible for reappointment. Upon the death, disability, resignation, removal, or refusal to serve of any member, the governor shall appoint a qualified member of that tribe, band, or group to fill the unexpired term of office.

"(d) The chairman shall submit any written complaint of any tribal body that appoints members to the commission, or any written complaint of any other appointing authority that any commissioner is negligent in the performance of his or her commission duties to the Governor for review. After reviewing the complaint, if the Governor determines the commission has been negligent, the Governor may remove the commissioner from the commission and appoint a successor as provided in this section."

"§41-9-712.

~~"(a) The commission shall meet monthly, and at such times that it shall deem necessary. Special meetings may be called by the chairman at the call of the chair, or by a petition signed by a majority of the members of the commission. Ten-days notice shall be given in writing prior to the meeting date. Such notice shall describe the matters to be discussed at the meeting.~~

~~"(b) A simple majority of the members of the commission shall constitute a quorum for the transaction of business at every monthly meeting of the commission or any special called meetings for the purpose of transacting business.~~

"(c) Proxy vote shall not be permitted."

"§41-9-713.

"The commission shall hire an executive director for the commission. Such director shall serve as secretary of the commission and as chief administrator and executive officer of the commission, having general charge of the work of the commission under its direction, and shall hire such other personnel as may be necessary in carrying out the provisions of this article ~~with the approval of the commission~~. The executive director shall always serve at the discretion of the commission."

"§41-9-715.

"(a) There is ~~hereby~~ continuously appropriated out of funds in the state treasury, not otherwise appropriated, the sum of not less than two hundred fifty thousand dollars (\$250,000), \$125,000.00 perpetually funded for the commission, which shall begin May 8, 1984, for the operation of the commission, which funds shall be disbursed in accordance with a financial management system approved by the legislative council.

"(b) The commission may accept any surplus property from other government agencies and shall be exempt from paying the surplus property surcharge of the Alabama Department of Economic and Community Affairs."

"§41-9-716.

"The commission shall prepare and submit a written annual report giving an account of its proceedings, transactions, findings and recommendations. This report shall be submitted to the governor and the legislature. The report will become a matter of public record and will be maintained in the state department of archives and history."

Section 4. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

QUORUM CALL REQUESTED

At 3:45 P.M., Senator Hale requested that the President and Presiding Officer of the Senate ascertain the presence of a quorum.

The President and Presiding Officer of the Senate declared that a quorum of the Senate was present.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said

Committee, in session, has compared the following engrossed Senate Bills with the original Senate Bills and finds same correctly engrossed, to-wit:

S. 49. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Department of Insurance.

Also:

S. 100. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Plumbers and Gas Fitters Examining Board with certain modifications; to amend Sections 34-37-6, 34-37-8, 34-37-9, 34-37-12, and 34-37-15, Code of Alabama 1975, so as to provide minimum times for holding a lower classification before being examined for certification as a journeyman plumber, master plumber, or master pipe fitter; extend the time period for certification without an examination (grandfather clause); require the board to adopt a program of continuing education by October 1, 1994; require the board to adopt a late renewal penalty and levy administrative fines; and permit property owners to perform plumbing work on their own property.

JIM PREUITT,
Chairperson.

FURTHER CONSIDERATION OF SB 53

The Senate proceeded to further consideration of the Bill, SB 53. The question was on the Committee substitute.

Senator Dial offered the following amendment to the substitute for the Bill, SB 53, to-wit:

AMENDMENT TO SUBSTITUTE FOR SB 53

Amend the substitute for SB 53 Page 5, as follows:

Line 22 delete the words "two hundred fifty thousand dollars" and insert in lieu thereof the words "two hundred thousand dollars" and on

Line 23 delete the number (\$250,000) and insert in lieu thereof the number (\$200,000)

Which was adopted.

And said substitute, as amended, was then adopted.

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Yeas 20 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried,
Dial, Floyd, Ghee, Hale, Langford, Lindsey, Little, Mitchell, Mitchem,
Parsons, Preuitt, Wilson, and Windom -20

Nays:

- 0

And said Bill, SB 53, as amended by the substitute, as amended,
was read a third time at length and passed, and ordered sent forthwith to
the House upon engrossment.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried,
Floyd, Ghee, Hale, Langford, Lindsey, Mitchell, Mitchem, Parsons,
Preuitt, Wilson, and Windom -18

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 51, adopted.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried,
Floyd, Ghee, Hale, Langford, Lindsey, Little, Mitchell, Mitchem,
Parsons, Preuitt, Smith (B), and Wilson -19

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 51. Relating to the Alabama Sunset Law; to continue the
existence and functioning of the Alabama Board of Funeral Service with
certain modifications; to amend Sections 34-13-20, 34-13-26, 34-13-53,
34-13-56, and 34-13-111, Code of Alabama 1975.

was taken up.

The Standing Committee on Economic Affairs reported the following substitute for the Bill, SB 51, to-wit:

SUBSTITUTE FOR SB 51

**A BILL
TO BE ENTITLED
AN ACT**

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Funeral Service.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the sunset committee recommends the continuance of the Alabama Board of Funeral Service.

Section 2. The existence and functioning of the Alabama Board of Funeral Service, created and functioning pursuant to Sections 34-13-1 to 34-13-133, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1 and 2 of this act.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried, Dial, Floyd, Ghee, Hale, Langford, Lindsey, Little, Mitchem, Parsons, Preuitt, Smith (B), and Wilson

-18

Nays:

- 0

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And said Bill, SB 51, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried, Dial, Floyd, Ghee, Hale, Langford, Lindsey, Little, Mitchell, Parsons, Preuitt, and Wilson -18

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 52, adopted.

Yeas 20 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried, Dial, Floyd, Ghee, Hale, Langford, Lindsey, Little, Mitchell, Parsons, Preuitt, Smith (B), Wilson, and Windom -20

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 52. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Cosmetology with certain modifications; to amend Sections 34-7-19 and 34-7-21, Code of Alabama 1975.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 20 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried, Dial, Floyd, Ghee, Hale, Langford, Lindsey, Little, Mitchell, Mitchem, Preuitt, Smith (B), Wilson, and Windom -20

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 48, adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried,
Dial, Floyd, Ghee, Hale, Langford, Lindsey, Little, Preuit, Smith (B),
Wilson, and Windom -18

Nays:

- 0

BILLS ON THIRD READING RESUMED**THE BILL:**

S. 48. Relating to the Alabama Sunset Law; to terminate the existence and functioning of the Alcoholic Beverage Control Board, effective October 1, 1993; to require the board to submit a plan to the Alabama Sunset Committee 30 days prior to the 1993 regular legislative session to remove the board from the wholesale and retail sale of alcoholic beverages in Alabama; and to authorize a fee for denatured alcohol manufacturers.

was taken up.

The Standing Committee on Economic Affairs reported the following substitute for the Bill, SB 48, to-wit:

SUBSTITUTE FOR SB 48**A BILL
TO BE ENTITLED
AN ACT**

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alcoholic Beverage Control Board.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the sunset committee recommends the continuation of the Alcoholic Beverage Control Board.

Section 2. The existence and functioning of the Alcoholic Beverage Control Board, created and functioning pursuant to Sections 28-3-40 to 28-3-55, inclusive, Code of Alabama 1975, is continued, and those Code sections are expressly preserved.

Section 3. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1 and 2 of this act.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Senator Bedsole moved that said substitute be laid on the table, which motion was lost.

And said substitute was then adopted.

Yeas 18 Nays 1

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried, Dial, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Parsons, Preuitt, and Smith (B) -18

Nay: Senator Bedsole

- 1

And said Bill, SB 48, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 19 Nays 1

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried, Dial, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Parsons, Preuitt, and Smith (B) -19

Nay: Senator Bedsole

- 1

BUDGET ISOLATION RESOLUTION

Senator Corbett, B.I.R., SB 35, adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett,

deGraffenried, Dial, Ghee, Hale, Lindsey, Lipscomb, Little, Preuit,
Smith (B), Wilson, and Windom -18

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 35. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Real Estate Commission with certain modifications; to amend Sections 34-27-2, 34-27-7, 34-27-8, 34-27-31, 34-27-32, 34-27-33, 34-27-34, 34-27-35, and 34-27-36, Code of Alabama 1975.

was taken up.

The Standing Committee on Economic Affairs reported the following substitute for the Bill, SB 35, to-wit:

SUBSTITUTE FOR SB 35

A BILL TO BE ENTITLED AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Real Estate Commission with certain modifications; to amend Sections 34-27-2, 34-27-7, 34-27-8, 34-27-31, 34-27-32, 34-27-33, 34-27-34, 34-27-35, and 34-27-36, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the sunset committee recommends the continuance of the Alabama Real Estate Commission, with the additional recommendations for statutory changes of the commission as set out in Section 3 of this act.

Section 2. The existence and functioning of the Alabama Real Estate Commission, created and functioning pursuant to Sections 34-27-1 to 34-27-38, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Sections 34-27-2, 34-27-7, 34-27-8, 34-27-31, 34-27-32, 34-27-33, 34-27-34, 34-27-35, and 34-27-36 of the Code of

Alabama 1975, are amended to read as follows:

"§34-27-2.

"(a) For purposes of articles 1 and 2 of this chapter, the following terms shall have the respective meanings ascribed by this section:

"(1) PERSON. A natural person.

"(2) BROKER. Any person licensed as a real estate broker under the provisions of articles 1 and 2 of this chapter.

"(3) ~~SALESMAN~~ SALESPERSON. Any person licensed as a real estate ~~salesman~~ salesperson under ~~the provisions of~~ articles 1 and 2 of this chapter.

"(4) QUALIFYING BROKER. A broker under whom a corporation, partnership, or branch office is licensed, or a broker licensed to do business as a sole proprietorship, ~~and~~ who is responsible for supervising the acts of the company or proprietorship and all real estate licensees licensed therewith.

"(5) COMPANY. Any corporation, partnership, or branch office licensed as a company under ~~the provisions of~~ articles 1 and 2 of this chapter.

"(6) ASSOCIATE BROKER. Any broker other than a qualifying broker.

"(7) LICENSEE. Any broker, ~~salesman~~ salesperson or company.

"(8) COMMISSION. The Alabama ~~real estate commission~~ Real Estate Commission, except where the context requires that it means the fee paid to a broker or ~~salesman~~ salesperson.

"(9) ENGAGE. Contractual relationships between a qualifying broker, and an associate broker or ~~salesman~~ salesperson licensed under him or her whether the relationship is employer-employee, independent contractor, or otherwise.

"(10) INACTIVE LICENSE. A license which is being held by the commission office by law, order of the commission, ~~or~~ at the request of the licensee, or which is renewable but is not currently valid because of failure to renew.

"(11) **LICENSE PERIOD.** That period of time beginning on October 1 of a year designated by the commission to be the first year of a license period and ending on midnight September 30 of the year designated by the commission as the final year of that license period.

"(12) **COMMISSIONER.** A member of the commission.

"(13) **RECOVERY FUND.** The Alabama ~~real estate recovery fund~~ Real Estate Recovery Fund.

"(14) **PLACE OF BUSINESS.**

"a. A licensed broker living in a rural area of this state who operates from his or her home, provided that he or she sets up and maintains an office for the conduct of the real estate business, which office shall not be used for living purposes or occupancy other than the conduct of the real estate business. ~~; provided further, such~~ The office shall be used by the broker only and not as a place of business from which ~~(an) any~~ additional licensee(s) may operate operates under his or her license. ~~Such~~ The office ~~must~~ shall have a separate business telephone, separate entrance, and be properly identified as a real estate office.

"b. All licensees located within the city limits ~~and/or~~ police jurisdiction of a municipality ~~must~~ shall operate from a separate office located in the city limits ~~and/or~~ police jurisdiction. ~~Such~~ The office ~~must~~ shall have a business telephone, ~~must~~ meet all other regulations of the real estate commission, and ~~must~~ be properly identified as a real estate office. Hardship cases may be subject to waiver of this regulation upon application and approval by the commission.

"c. All business records and files ~~must~~ shall be kept at the place of business as ~~may be~~ required by law or real estate commission rules.

"(b) The licensing requirements of articles 1 and 2 of this chapter shall not apply to any of the following persons and transactions:

"(1) Any owner in the managing of, or in consummating a real estate transaction involving, his or her own real estate or the real estate of his or her spouse or child or parent. ~~;-or~~

"(2) ~~Attorney-at-law~~ An attorney-at-law performing his or her duties as an attorney-at-law. ~~;-or~~

"(3) ~~Person~~ Persons acting without compensation and in good

faith under a duly executed power of attorney authorizing the consummation of a real estate transaction. ~~;~~~~or~~

"(4) ~~Person~~ Persons or a state or federally chartered financial institution acting as a receiver, trustee, administrator, executor, or guardian; or acting under a court order or under authority of a trust instrument or will. ~~;~~~~or~~

"(5) Public ~~officer~~ officers performing ~~his~~ their official duties. ~~;~~
~~or~~

"(6) ~~Person~~ Persons performing general clerical or administrative duties for a broker so long as the person does not physically show listed property. ~~;~~~~or~~

"(7) Person acting as the on-site manager for an apartment building or complex if the manager resides on the premises. However, this exception shall not apply to a person acting as an on-site manager of a condominium building or complex. ~~;~~~~or~~

"(8) ~~Person~~ Persons licensed as a time-share ~~seller~~ sellers under article 3 of this chapter performing an act consistent with ~~the provisions~~ of that article. ~~;~~~~or~~

"(9) Transactions involving the sale, lease, or transfer of cemetery lots.

"§34-27-7.

"(a) There is hereby created the Alabama ~~real estate commission~~ Real Estate Commission. The commission shall consist of eight members appointed by the ~~governor~~ Governor with the advice and consent of the ~~senate as hereinafter provided~~ Senate, or Senate Confirmation Committee. The ~~governor's~~ Governor's appointments to the commission shall be made from a list of three persons nominated by the governing body of the Alabama professional real estate society or trade association which has the largest licensee membership, as evidenced by the filing of a verified list of paid members with the ~~secretary of state~~ Secretary of State within 10 days after April 16, 1989, and annually by December 31 of each year thereafter. At least one of the persons nominated for each commission seat shall not be a member of the ~~said~~ the real estate society or trade association. The ~~governor~~ Governor shall appoint one of the three nominated persons within 30 days following receipt of the list. If the ~~governor~~ Governor does not make an appointment within 30 days, the said real estate society or trade association shall provide the ~~governor~~

Governor a list of three additional nominees. ~~The governor~~ Governor, upon receipt of the second list of nominees, shall appoint one of the six nominees within 30 days following receipt of the nominees. Appointments made at times when the ~~senate~~ Senate is not in session shall be effective ad interim. Any appointment made by the ~~governor~~ Governor while the ~~senate~~ Senate is in session ~~must shall~~ be submitted to ~~the senate~~ not later than the third legislative day following the date of appointment. ~~;-any~~ Any appointment made while the ~~senate~~ Senate is not in session shall be submitted not later than the third legislative day following the reconvening of the ~~legislature~~ Legislature.

"(b) Ad interim appointments may be made by the ~~governor~~ Governor when the ~~legislature~~ Legislature is not in session only for vacancies occurring by reason of death or resignation of a board member. Ad interim appointments ~~must shall~~ be confirmed by the ~~senate~~ Senate at the next following regular or special session of the ~~legislature~~ Legislature. ~~and failure~~ Failure by the ~~senate~~ Senate to ~~so~~ confirm shall result in a vacancy on the board ~~which that~~ shall be filled by appointment by the ~~governor~~ Governor and confirmation by the ~~senate~~ Senate while the ~~legislature~~ Legislature is in session. Any ~~such~~ vacancy not acted upon shall remain a vacancy until it is filled at a subsequent session of the ~~legislature~~ Legislature in the manner ~~herein~~ prescribed in this section.

"(c) Each of the original seven appointees and their successors shall have been a resident and citizen of this state for at least 10 years prior to his or her appointment and whose vocation for at least 10 years shall have been that of a real estate broker or real estate ~~salesman~~ salesperson. No person convicted of a violation of any federal or state real estate license law shall be eligible to serve. Not more than one member from any ~~congressional district~~ United States Congressional District shall be appointed to serve at the same time. The members of the commission shall serve five-year terms. On and after April 7, 1988, no member shall serve for more than two consecutive terms of office. ~~except, however, each member shall hold office until his successor is appointed and confirmed by the senate.~~ Failure by the Senate to confirm shall result in a vacancy on the board. In the event the Senate fails to confirm the appointment within five legislative days after its receipt of the appointment, the real estate society or trade association shall submit to the Senate Confirmation Committee the list or lists of eligible candidates which were previously provided to the Governor. The Senate Confirmation Committee shall, by a majority vote of the members present, offer to the Senate an appointee from the list or lists of eligible candidates which the Senate shall confirm. The period of time any member serves after the expiration of his term of office while awaiting the appointment and

~~senate confirmation of his successor shall not be considered as a consecutive term of office in determining the two consecutive terms of office limitation herein provided.~~ All appointments shall expire on September 30 of the final year of a term, ~~or on the date a successor to the member is appointed and confirmed.~~ If a member does not serve his or her full term, the ~~governor~~ Governor shall appoint, in the same manner as original appointments are made, subject to confirmation by the ~~senate~~ Senate, a member to serve the unexpired portion of the term.

"(d) On September 30, 1988, the ~~governor~~ Governor shall appoint one new member to the commission, subject to the confirmation of the ~~senate~~ Senate, who shall be a black member who meets all of the other requirements of subsection (c) ~~hereof~~, who shall serve no more than two consecutive terms of office, who shall be a full voting member, and who may be appointed from any congressional district in the state, ~~provided that each~~ Each successor black member shall be appointed from a different congressional district, to be rotated equally among the remaining congressional districts.

"(e) On the appointment of a new commissioner, the commission shall meet and select from its members a chairman.

"(f) Each member of the commission shall receive as full compensation ~~\$300.00~~ three hundred dollars (\$300) per month. The members of the commission, its staff, and attorneys shall receive the same per diem and travel allowance ~~as is~~ paid to state employees for each day they meet to conduct the official business of the commission.

"(g) The commission may employ an executive director and an assistant executive director, both of whom shall be exempted from the classified service under the general laws of the state, and ~~such~~ other staff members ~~as are~~ necessary to discharge its duties and administer this chapter. The executive director and assistant executive director shall be employed on the basis of their education, experience, and skills in administration and management. The commission shall advertise to seek quality applicants possessing ~~such~~ the qualifications and shall conduct interviews of the top applicants. The assistant executive director shall act as and have authority of the executive director in his or her absence. The commission shall determine the duties and fix the compensation of the executive director, assistant executive director, and other staff members, subject to the general laws of the state.

"(h) The commission shall adopt a seal by which it shall authenticate records and documents. Copies of all records and documents in the office of the commission duly certified and authenticated by the seal of

the commission shall be received in evidence in all courts equally and with ~~like~~ the same effect as the original. All public records kept in the office of the commission shall be open to public inspection during reasonable hours and under reasonable circumstances.

"(i) No commissioner shall be liable for damages resulting from any act performed in carrying out his or her duties as a commissioner.

"§34-27-8.

"(a) ~~The commission may act by a majority of its members, and is authorized and empowered to~~ A majority of the commission members shall constitute a quorum for the conduct of commission business. The commission may adopt and enforce all rules and regulations pursuant to the state administrative procedure statutes as are necessary for the administration of the provisions of this chapter, and to otherwise do all things necessary and convenient for effecting the provisions of this chapter.

"(b) In addition to the powers granted ~~herein~~ in this section, the commission ~~is authorized and empowered to~~ may adopt and enforce rules and regulations governing the requirements of agency disclosure by licensed brokers and ~~salesmen~~ salespersons.

"(c) ~~It is further expressly provided, however, that each sales contract~~ Each offer to purchase prepared after April 6, 1989, shall have prominently displayed either in pre-printed form or typed-in or hand-written in the following AGENCY DISCLOSURE clause:

"AGENCY DISCLOSURE: The listing Agency _____ represents the Seller (unless otherwise stated), and the selling Agency _____ represents ___ Seller ___ Purchaser. Seller's initials _____ Purchaser's initials _____.

"§34-27-31.

"(a) The commission ~~is authorized and directed to~~ shall establish and maintain a recovery fund from which an aggrieved party may recover actual or compensatory damages, not including interest and court costs, sustained only within the state of Alabama as a result of conduct of a broker or ~~salesman~~ salesperson in violation of ~~a provision of~~ article 1 or 2 of this chapter or the rules and regulations of the commission.

"(b) Notwithstanding any other provision to the contrary, pay-

ments from the recovery fund are subject to the following conditions and limitations:

"(1) The fund shall not be obligated for the acts or omissions of a broker or ~~salesman~~ salesperson while acting on his or her own behalf or on behalf of his or her child, ~~or spouse,~~ or parent regarding property in which he or she or his or her spouse, ~~or child,~~ or parent has, or is attempting to acquire, an interest; or for the acts or omissions of an inactive licensee; or for the acts or omissions of a corporation, branch office, or partnership except through its licensed ~~salesmen~~ salespersons and brokers as individuals. ~~Nor shall the~~ The fund shall not be obligated for any judgment or settlement resulting from an act or omission of a broker or ~~salesman~~ salesperson committed in conjunction with the marketing or development of a time-sharing project.

"(2) Payments for claims based on judgments or settlements against any one person shall not exceed ~~\$50,000.00~~ fifty thousand dollars (\$50,000) in the aggregate.

"(3) Payments for claims arising out of the same transaction shall not exceed ~~\$25,000.00~~ twenty-five thousand dollars (\$25,000) in the aggregate, regardless of the number of claimants.

"(4) The fund shall not be liable for payments to a licensee or bonding company unless the licensee or bonding company was a principal party to a real estate transaction on which the judgment was based.

"(c)(1) When any person makes application for an original license as a broker or ~~salesman~~ salesperson, he or she shall pay, in addition to all other fees, a fee of ~~\$30.00~~ thirty dollars (\$30) for deposit in the recovery fund. In the event the commission does not issue the license, this fee shall be returned to the applicant.

"(2) Any licensee who has paid the recovery fund fee when licensed as a salesperson and again paid the fee when licensed as a broker shall, upon request to the commission, be refunded the fee paid when licensed as a broker. It is the intent of this section that licensees of the commission shall pay the recovery fund fee once only when he or she is originally licensed by the commission.

"(3) Payments made to the recovery fund in lieu of bond by a licensee shall be paid only one time when he or she is originally licensed by the commission.

"(d) When the balance remaining in the recovery fund is less

than ~~\$500,000.00~~ five hundred thousand dollars (\$500,000), each broker and ~~salesman~~ salesperson shall on order of the commission pay a fee of ~~\$30.00~~ thirty dollars (\$30) per license for deposit in the recovery fund. A licensee on inactive status shall not be required to contribute to the fund at that time. ~~÷ however, he shall pay a~~ A fee of ~~\$30.00~~ thirty dollars (\$30) shall be paid at the time ~~his~~ a license is activated.

"(e)(1) When an aggrieved person commences an action for a judgment which may result in collection from the recovery fund, the aggrieved person shall notify the commission in writing, by certified mail, return receipt requested, to this effect at the time of the commencement of the action.

"(2) When the commission receives the notice described in subdivision (e)(1), ~~the commission~~ it may enter an appearance, file pleadings and motions, appear at court hearings, defend the action, or take whatever other action it deems appropriate either on the behalf and in the name of the defendant, or in its own name. The commission may also take any appropriate method of review either on behalf and in the name of the defendant, or in its own name. The commission may settle or compromise the claim. Any expenses incurred by the commission in defending, satisfying, or settling any claim shall be paid from the recovery fund.

"(3) When an aggrieved person recovers a valid judgment in a court of competent jurisdiction against a broker or ~~salesman~~ salesperson on the grounds described in subsection (a) above, which occurred on or after October 1, 1979, the aggrieved person may, on the termination of all proceedings, including reviews and appeals in connection with the judgment, file a verified claim in the court in which the judgment was entered and, on 10 days' written notice to the commission, may apply to the court for an order directing payment out of the recovery fund of the amount unpaid on the judgment.

"(4) The court shall proceed on ~~such~~ the application ~~forthwith~~ immediately and, on hearing, the aggrieved person shall be required to show ~~that~~ each of the following:

"a. He or she is not the spouse, child, or parent of the debtor, or the personal representative of the spouse, child, or parent. ÷

"b. He or she has obtained a judgment, as described in subdivision (3) of subsection (e) of this section, stating the amount of the judgment and the amount owing on the judgment at the date of the application, and, that in ~~such~~ the action, he or she had joined any and

all bonding companies which issued corporate surety bonds to the judgment debtor as principal and all other necessary parties. †

"c. The following items, if recovered by him or her, have been applied to the actual compensatory damages awarded by the court:

"1. Any amount recovered from the judgment debtor. †

"2. Any amount recovered from bonding companies. †

"3. Any amount recovered in out-of-court settlements.

"(5) The court shall order that the recovery fund pay whatever sum it finds due under ~~the provisions and limitations of~~ this section.

"(6) Should the commission pay from the recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, all licenses of the licensee may be terminated by the commission. The commission may refuse to issue a new license to the former licensee until he or she has repaid in full, plus interest at the rate of 12 percent a year, the amount paid from the recovery fund. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this section.

"(7) If the balance in the recovery fund is insufficient to satisfy a duly authorized claim or portion of a claim, the commission shall, when sufficient money has been deposited in the recovery fund, satisfy the unpaid claims or portions, plus interest at the rate of 12 percent a year in the order that the claims were originally filed.

"(f) The sums received by the commission pursuant to ~~the provisions of~~ this section shall be deposited into the ~~state treasury~~ State Treasury and held in a special fund to be known as the ~~real estate recovery fund~~ Real Estate Recovery Fund, and shall be held by the commission in trust for carrying out the purposes of the recovery fund. These sums may be invested by the ~~state treasurer~~ State Treasurer in any investments which are legal for domestic life insurance companies under the laws of this state. Any interest or other income from investments of the recovery fund shall be deposited in equal shares, as it accrues, into the ~~general fund~~ General Fund of the ~~state treasury~~ State Treasury and the commission fund.

"(g) When, on order of the court, the commission has paid from the recovery fund any sum, the commission shall be subrogated to all the rights of the judgment creditor, and all his or her right, title, and

interest in the judgment, to the extent of the amount paid from the recovery fund, shall ~~thereby~~ be assigned to the commission. Any amount and interest recovered by the commission on the judgment shall be deposited to the fund.

"(h) The failure of an aggrieved person to strictly comply with all of the provisions of this section shall constitute a waiver of any rights under this section.

"(i) Each licensee shall notify the commission within 10 days after notice to him or her of the institution of any criminal prosecution against him or her, or of a civil summons and complaint against him or her, if the subject matter of the civil complaint involves a real estate transaction or involves the goodwill of an existing real estate business. The notification shall be in writing by certified mail and ~~must~~ shall include a copy of the summons and complaint. ~~or, if~~ If a criminal charge, is made, it shall include the specific charge made against ~~him~~ the licensee together with a copy of any indictment or information alleging the charges.

"(j) Each licensee shall notify the commission in writing by certified mail within 10 days after he or she receives notice that any criminal verdict has been rendered against him or her, or that a criminal action pending against him or her has been dismissed, or that a civil action in which he or she was a defendant and which involved a real estate transaction or the goodwill of a real estate business has resulted in a judgment or been dismissed. The notification shall be in writing and ~~must~~ shall include a copy of the court order or other document giving the licensee notice.

"§34-27-32.

"(a) A license for a broker or a ~~salesman~~ salesperson shall be registered to a specific real estate office and shall be issued only to, and held only by, a person who meets all of the following requirements:

"(1) ~~Who is~~ Is trustworthy and competent to transact the business of a broker or ~~salesman~~ salesperson in a manner that safeguards the interest of the public. ÷

"(2) ~~Whose~~ Is a person whose application or license has not been rejected or revoked in any state within two years prior to date of application on any grounds other than failure to pass a written examination. Any applicant whose license has been revoked ~~must~~ shall meet all the requirements imposed on an original applicant for a license and shall not

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be relicensed without the approval of the commissioners. †

"(3) ~~Who is~~ Is at least 19 years old. †

"(4) ~~Who is~~ Is a citizen of the United States or is an alien with permanent resident status. † ~~and~~

"(5) ~~Who~~ Is a person who if a nonresident, agrees to sign an affidavit stating the following and in the following form:

"I, as a nonresident applicant for a real estate license and as a licensee, agree that the Alabama Real Estate Commission shall have jurisdiction over me in any and all of my real estate related activities the same as if I were an Alabama resident licensee. I agree to be subject to investigations and disciplinary actions the same as Alabama resident licensees. Further, I agree that civil actions may be commenced against me in any court of competent jurisdiction in any county of the state of Alabama.

"I hereby appoint the executive director or the assistant executive director of the Alabama ~~real estate commission~~ Real Estate Commission as my agent upon whom all disciplinary, judicial, or other process or legal notices may be served. I agree that ~~such any~~ service upon my ~~said~~ agent shall be the same as service upon me and that certified copies of this appointment shall be deemed sufficient evidence ~~thereof~~ and shall be admitted into evidence with the same force and effect as the original might be admitted. I agree that any lawful process against me which is served upon my ~~said~~ agent shall be of the same legal force and validity as if personally served upon me and that this appointment shall continue in effect for as long as I have any liability remaining in the state of Alabama. I understand that my ~~said~~ agent shall, within a reasonable time after service upon him or her, mail a copy of ~~same~~ the service by certified mail, return receipt requested, to me at my last known business address.

"I agree that I am bound by all the provisions of the Alabama real estate license law the same as if I were a resident of the state of Alabama.

_____ Legal signature of applicant"

"The commission may, ~~in its discretion~~, reject the application of any person who has been convicted of or pleaded guilty or nolo contendere to a felony or a crime involving moral turpitude.

"(b) A person desiring to be a real estate broker in this state

must shall apply for a broker's license on a form prescribed by the commission which shall specify the real estate office to which he or she is registered. Along with the application, he or she shall submit all of the following:

"(1) Proof that he or she has had an active real estate ~~salesman's~~ salesperson's license in ~~Alabama~~ any state for at least 24 months of the 36 month period immediately preceding the date of application. ▾

"(2) Proof that he or she is a high school graduate or the equivalent. ▾

"(3) Proof that he or she has completed a course in real estate approved by the commission, which ~~will shall~~ be a minimum of eight weeks in length, ~~which will shall~~ meet at least once a week, ~~which will and shall~~ contain a minimum of ~~45 60~~ classroom hours. ~~This course must be taught by an instructor who has had approval of the Alabama real estate commission prior to an approved pre-license course and shall be taught within the state of Alabama.~~

"(4) Any other information requested by the commission.

~~"In lieu of the requirements of subdivisions (1) and (3) hereof, the applicant may furnish proof that he has successfully completed at least 15 semester hours or its equivalent in real estate courses approved by the commission.~~

"(c) A person desiring to be a real estate ~~salesman~~ salesperson in this state must shall apply for a ~~salesman's~~ salesperson's license with the commission on a form prescribed by the commission which shall specify the real estate office to which he or she is registered. Along with the application he or she must shall furnish all of the following:

"(1) Proof that he or she is a high school graduate or the equivalent. ▾

"(2) Proof that he or she has successfully completed a course in real estate approved by the commission, which ~~will shall~~ be a minimum of eight weeks in length, which ~~will shall~~ meet at least once a week, ~~which will and shall~~ contain a minimum of 45 classroom hours. ~~This course must be taught by an instructor who has had approval of the Alabama real estate commission prior to an approved pre-license course and shall be taught within the state of Alabama. In addition, the applicant shall provide:~~

"(3) Any other information required by the commission.

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"(d) An application for a company license for a corporation, partnership, or branch office shall be made by a qualifying broker on a form prescribed by the commission. The qualifying broker ~~must~~ shall be an officer, partner, or employee of the company.

"(e) An applicant for a company or broker license ~~must~~ shall maintain a place of business in the state of Alabama.

"(f) If the applicant for a company or broker license maintains more than one place of business in the state, he or she ~~must~~ shall have a company license for each separate location or branch office. Every application shall state the location of the branch office and the name of its qualifying broker. Each branch office shall be under the direction and supervision of a qualifying broker licensed at that address. No person may serve as qualifying broker at more than one location. The qualifying broker for the branch office and the qualifying broker for the corporation, partnership, or sole proprietorship shall share equal responsibility for the real estate activities of all licensees assigned to the branch office.

"(g) No person ~~may~~ shall be a qualifying broker for more than one company or for a company and on his or her own behalf unless:

"(1) All companies for which he or she is and proposes to be the qualifying broker consent in writing, ~~and~~

"(2) He or she files a copy of the written consent with the commission, ~~and~~

"(3) He or she will be doing business from the same location.

"A person licensed under a qualifying broker may be engaged by one or more companies with the same qualifying broker.

"(h) A company license shall become invalid on the death or disability of a qualifying broker. Within 30 days after the death or disability, the corporation, or the remaining partners or the successor partnership, if any, may designate another of its officers, members, or ~~salesmen~~ salespersons to apply for a license as temporary qualifying broker. The person designated as temporary qualifying broker ~~either must shall either~~ be a broker or ~~must~~ have been a ~~salesman~~ salesperson for at least one year prior to filing the application. If the application is granted, the company may operate under that broker for no more than six months after the death or disability of its former qualifying broker. Unless the company designates a fully licensed broker as the qualifying

broker within the six months, the company license shall be classified inactive by the commission.

"(i) The commission may charge any applicant a fee for a criminal record search of the applicant in the same amount as is charged the commission by the Department of Public Safety or other agency for the search.

"(j) The commission may charge a fee of ten dollars (\$10) for furnishing any person a copy of a license, certificate or other official record of the commissioner.

"§34-27-33.

"(a) In addition to other requirements of this chapter, every applicant for a broker's or ~~salesman's~~ salesperson's license shall submit to a reasonable written examination. The commission shall conduct examinations at such places and times as it shall prescribe prescribes. The commission is ~~authorized to~~ may contract with an independent testing agency to prepare, grade, or conduct this the examination. The fee shall be ~~\$75.00~~ seventy-five dollars (\$75) for each examination taken by the applicant, and no No refund shall be made if an applicant fails the examination. The examination fee shall be paid by certified check, cashier's check, or money order. If an applicant is scheduled and issued a written permit for an examination and fails to appear, one-half of the examination fee will shall be forfeited.

"(b) ~~The applicant shall have 60~~ Within 90 days after passing the examination, to secure a qualifying broker or to have his license classified as inactive; otherwise, he must the applicant shall secure a qualifying broker and meet all requirements of an original applicant. of this chapter and the board shall issue an active license or classify the license as inactive. In order to obtain an active license, the applicant's qualifying broker must shall sign and submit to the commission a sworn statement that the ~~salesman~~ applicant is in his or her opinion honest, trustworthy, and of good reputation and that he the broker accepts responsibility for the actions of such ~~salesman~~ the salesperson as set out in section 34-27-31. The applicant's qualifying broker must shall be licensed in Alabama, and must maintain a place of business in the state of Alabama.

"(c) On passing the examination and complying with all other conditions for licensure, a license certificate shall be issued to the applicant. The applicant is not licensed until he or she or his or her qualifying broker actually receives the license certificate.

"§34-27-34.

"(a)(1) A broker may serve as qualifying broker for a salesman salesperson or associate broker only if ~~he is~~ licensed in Alabama, and his or her principal business is that of a real estate broker, and he or she will shall be in a position to actually supervise the real estate activities of the associate broker or ~~salesman salesperson~~ on a full-time basis, ~~and he must maintain a place of business in Alabama.~~

"(2) A ~~salesman salesperson~~ or associate broker ~~may~~ shall not perform acts for which a license is required unless licensed under a qualifying broker. A qualifying broker shall be held responsible to the commission and to the public for all acts governed by this chapter of each ~~salesman salesperson~~ and associate broker licensed under him or her and of each company for which he or she is the qualifying broker. It shall be the duty of the qualifying broker to see that all transactions of every licensee engaged by him or her or any company for which he or she is the qualifying broker comply with the provisions of this chapter. Additionally, the qualifying broker shall be responsible to an injured party for the damage caused by any violation of this chapter by any licensee engaged by the qualifying broker. This subsection does not relieve a licensee from liability that he or she would otherwise have.

"(3) The qualifying brokers' supervision responsibilities, as prescribed herein, over the real estate activities of associate brokers and ~~salesmen salespersons~~ licensed under him or her are not intended to and should not be construed as creating an employer-employee relationship contrary to any expressed intent of the qualifying broker and licensee to the contrary.

"(b) Any ~~salesman salesperson~~ or associate broker who desires to change his or her qualifying broker shall give notice in writing to the commission, and shall send a copy of the notice to his qualifying broker. The new qualifying broker ~~must~~ shall file with the commission a request for the transfer and a statement assuming liability for the licensee. On payment of a fee of ~~\$25.00~~ twenty-five dollars (\$25), a new license certificate shall be issued to the ~~salesman salesperson~~ or associate broker for the unexpired term of the original license. ~~No license transfer shall be made during September of the final year of a license period except in case of undue hardship.~~

"(c) A person who wishes to terminate his or her status as qualifying broker for a licensee may do so by notifying the licensee and the commission in writing and sending the licensee's license certificate to the commission or verifying in writing to the commission that the certificate has been lost or destroyed.

"(d) A person who wishes to terminate his or her status as a qualifying broker for a company may do so by submitting written notice to the company or qualifying broker of the parent company and the commission.

"(e) A ~~salesman~~ salesperson or associate broker shall not perform any act for which a license is required after his or her association with his or her qualifying broker has been terminated, or if he or she changes qualifying brokers, until a new active license has been issued by the commission.

"§34-27-35.

"(a) The commission shall prescribe the form and content of license certificates issued. Each qualifying broker's license certificate shall show the name and business address of the broker. The license certificate of each active ~~salesman~~ salesperson or associate broker shall show his or her name and ~~the name and address of his qualifying broker~~. The license certificate of each active ~~salesman~~ salesperson or associate broker shall be delivered or mailed to his or her qualifying broker. Each license certificate shall be kept by the qualifying broker and shall be publicly displayed at the address which appears on the license certificate.

"(b) The commission ~~shall have the authority, at its discretion, to~~ may establish a one-year or multi-year license period.

"(c) The original fee for a broker's license shall be ~~\$35.00~~ thirty-five dollars (\$35) per year for each year or portion of a year remaining in the respective license period, and the renewal fee for a broker's license shall be ~~\$35.00~~ thirty-five dollars (\$35) per year for each year of the license period. The original fee for each ~~salesman's~~ salesperson's license shall be ~~\$25.00~~ twenty-five dollars (\$25) per year for each year or portion of a year remaining in the respective license period, and the renewal fee for each ~~salesman's~~ salesperson's license shall be ~~\$25.00~~ twenty-five dollars (\$25) per year for each year of the license period. The original fee for each company license shall be ~~\$25.00~~ twenty-five dollars (\$25) per year for each year or portion of a year remaining in the respective license period, and the renewal fee for each ~~such~~ license shall be ~~\$25.00~~ twenty-five dollars (\$25) per year for each year of the license period.

"(d) The license of a ~~salesman~~ salesperson who is subsequently issued a broker's license automatically terminates upon the issuance of his or her broker's license certificate. ~~; therefore he must return his~~

~~salesman's~~ The salesperson's license certificate shall be returned to the commission in order for ~~his a~~ broker's license to be issued. If the ~~salesman's salesperson's~~ license is ~~so~~ terminated during a year prior to the final year of a multi-year license period, the licensee ~~will~~ shall receive a refund equal to the license fee paid for each full year remaining in the respective license period. ~~However, no~~ No refund shall be made of any penalty fee or recovery fund deposit pertaining to the ~~salesman's~~ salesperson's license.

"(e) The commission shall prescribe a license renewal form, which ~~must~~ shall accompany renewal fees and ~~must~~ be filed on or before August 31 of the final year of each license period in order for the respective license to be renewed on a timely basis for the following license period. Licensees who renew during the period from September 1 of the final year of a license period through October 31 of the initial year of the following license period, shall pay a penalty of ~~\$15.00~~ fifteen dollars (\$15) in addition to the license fee. Any licensee renewing during the period from November 1 through September 30 of the initial year of a license period shall pay the required license fee, plus a penalty of ~~\$65.00~~ sixty-five dollars.

"(f) The renewal form shall be mailed by the commission to the licensee's place of business, if an active licensee, or to his or her residence if an inactive licensee, prior to August 1 of the final year of each license period. Each licensee ~~must~~ shall notify the commission in writing of any change in his or her business or residence address within 30 days of the change.

"(g) Every license shall expire at midnight on September 30 of the final year of each license period. An expired license may be renewed during the 12-month period following the license period for which the license was current. A licensee who fails to ~~file a renewal form or a request for an inactive classification~~ renew before the end of the 12-month period following the license period for which the license was issued shall be subject to all requirements applicable to persons who have never been licensed.

"(h)(1) Each applicant for renewal of a ~~salesman~~ salesperson or broker license issued by the commission shall, on or before the expiration date of ~~his/her~~ his or her license, submit proof of completion of not less than 12 clock hours of approved course work to the commission, in addition to any other requirements for renewal. ~~Provided, however, that proof~~ Proof of attendance at ~~such the~~ such the course work, whether or not the applicant attained a passing grade in ~~such the~~ such the course, shall be sufficient to satisfy requirements for renewal. The 12 clock hours' course work

requirement shall apply to each two-year license renewal, and hours in excess ~~thereof~~ of 12 shall not be cumulated or credited for the purpose of subsequent license renewals. The commission shall develop standards for approval of courses, and shall require certification of ~~such~~ the course work of the applicant.

Time served as a member of the state Legislature during each license renewal period shall be deemed the equivalent of the 12 hours course work and shall satisfy the requirements of this subsection.

"(2) This section shall apply to renewals of licenses which expire after September 30, 1986. ~~; however, an~~ An applicant for first renewal who has been licensed for not more than one year shall not be required to comply with this section for the first renewal of the applicant's license. Any licensee who is ~~65~~ 70 years of age or greater shall be exempt from this section.

~~"(3) Provided, however, under the provisions of this chapter,~~ continuing Continuing education shall not result in a passing or failing grade.

"(4) The commission shall promulgate rules and regulations as necessary to accomplish the purpose of this section in accordance with the Alabama Administrative Procedure Act (Sections 41-22-1 to 41-22-27, inclusive, Code of Alabama 1975).

"(5) This section shall not apply to the renewal of inactive status license or certification.

"(i)(1) A licensee may request that the commission ~~classify~~ issue his or her license as inactive. Inactive licenses ~~will~~ shall be held at the commission office until activated. No act for which a license is required ~~may~~ shall be performed under an inactive license.

"(2) Any licensee whose license has been inactive for more than 50 percent of the 24 months immediately preceding the date he or she proposes that the license be activated shall not be able to activate his or her license without first providing proof to the commission that he or she has successfully completed a refresher course approved by the commission. Time spent in ~~such~~ those courses shall not be credited toward the clock hours required for license renewal nor shall they be credited toward meeting the education requirements for obtaining an original broker's license.

"§34-27-36.

"(a) The commission or its staff may on its own, or on the verified complaint in writing of any person, investigate the actions and records of a licensee. The commission may issue subpoenas and compel the testimony of witnesses and the production of records and documents during an investigation. If probable cause is found, a formal complaint shall be filed and the commission shall hold a hearing on the formal complaint. The commission shall revoke or suspend the license ~~and/or~~ impose a fine of not less than ~~\$25.00~~ twenty-five dollars (\$25) nor more than ~~\$1,000.00~~ one thousand dollars (\$1,000), or both, or reprimand the licensee in each instance in which the licensee is found guilty of any of the following acts:

"(1) Procuring or attempting to procure, a license, for himself or herself or another, by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a license. ~~;-or~~

"(2) Engaging in misrepresentation or dishonest or fraudulent acts when selling, buying, trading, or renting real property of his or her own or of a spouse or child or parent. ~~;-or~~

"(3) ~~a.~~ Making a material misrepresentation, or failing

~~b.~~ Failing to disclose to a potential purchaser or lessee any latent structural defect or any other defect known to the licensee. Latent structural defects and other defects do not refer to trivial or insignificant defects but refer to those defects that would be a significant factor to a reasonable and prudent person in making a decision to purchase or lease. ~~;-or~~

"(4) Making any false promises of a character likely to influence, persuade, or induce any person to enter into any contract or agreement. ~~;-or~~

"(5) Pursuing a continued and flagrant course of misrepresentation or the making of false promises through agents or ~~salesmen~~ salespersons or any medium of advertising or otherwise. ~~;-or~~

"(6) Publishing or causing to be published any advertisement which ~~does or deceives~~ or which is likely to deceive the public, or which in any manner tends to create a misleading impression or which fails to identify the person causing the advertisement to be placed as a licensed broker or ~~salesman~~; ~~or~~ salesperson.

"(7) Acting for more than one party in a transaction without the knowledge and consent in writing of all parties for whom he or she acts. ~~;-or~~

"(8) a. Failing, within a reasonable time, to properly account for or remit money coming into his or her possession which belongs to others, or commingling money belonging to others with his or her own funds. ~~;-or~~

"b. Failing to deposit and account for at all times all funds belonging to, or being held for others, in a separate federally insured account or accounts in a financial institution located in Alabama. ~~;-or~~

"c. Failing to keep for at least three years a complete record of funds belonging to others showing to whom the money belongs, date deposited, date of withdrawal, and other pertinent information. ~~;-or~~

"(9) Placing a sign on any property offering it for sale, lease, or rent without the consent of the owner. ~~;-or~~

"(10) Failing to voluntarily furnish a copy of each listing, contract, lease, and other document to each party executing the document with reasonable promptness. ~~;-or~~

"(11) Paying any profit, compensation, commission, or fee to, or dividing any profit, compensation, commission, or fee with, anyone other than a licensee or multiple listing service. ~~;-or~~

"(12) Paying or receiving any rebate from any person in a real estate transaction. ~~;-or~~

"(13) Inducing any party to a contract to break the contract for the purpose of substituting a new contract, where the substitution is motivated by the personal gain of the licensee. ~~;-or~~

"(14) If the licensee is a ~~salesman~~ salesperson or associate broker, accepting a commission or other valuable consideration for performing any act for which a license is required from any person except his or her qualifying broker. ~~;-or~~

"(15) If a qualifying broker or company, allowing a ~~salesman~~ salesperson or associate broker licensed under him or her to advertise himself or herself as a real estate agent without the name or trade name of the qualifying broker or company appearing on the advertising in letters at least as large as the name of the ~~salesman~~ salesperson or associate broker; or if the licensee is a ~~salesman~~ salesperson or associate broker, advertising himself or herself as a real estate agent without the name or trade name of the qualifying broker or company under whom the ~~salesman~~ salesperson or associate broker is licensed appearing on the

advertising in letters at least as large as the name of the ~~salesman~~
salesperson or associate broker. ~~✚✚~~

"(16) Presenting to the commission, as payment for a fee or fine,
a check that is returned unpaid. ~~✚✚~~

"(17) Establishing an association, by employment or otherwise,
with an unlicensed person who is expected or required to act as a
licensee, or aiding, ~~or~~ abetting, or conspiring with a person to circum-
vent the requirements of this chapter. ~~✚✚~~

"(18) Failing to disclose to an owner the licensee's intention to
acquire, directly or indirectly, an interest in property which he or she or
his or her associates have been employed to sell. ~~✚✚~~

"(19) Violating or disregarding any provision of this chapter or
any rule, regulation, or order of the commission. ~~✚✚~~

"(20) If a broker, accepting a "net listing" agreement for sale of
real property or any interest therein. A "net listing" is one that stipulates
a net price to be received by the owner with the excess due to be
received by the broker as his or her commission. ~~✚✚~~

"(21) Misrepresenting or failing to disclose to any lender,
guaranteeing agency, or any other interested party, the true terms of a
sale of real estate. ~~✚✚~~

"(22) Failing to inform the buyer or seller at the time an offer is
presented that he or she will be expected to pay certain closing costs and
the approximate amount of those costs. ~~✚✚~~

"(23) a. Having entered a plea of guilty or nolo contendere to, or
having been found guilty of or convicted of a felony or a crime involving
moral turpitude. ~~✚✚~~

"b. Having a final money judgment rendered against him or her
which results from an act or omission occurring in the pursuit of his or
her real estate business or involves the goodwill of an existing real estate
business. ~~✚✚~~

~~"(24) Using prizes, money, free gifts or other valuable consider-
ation as inducements to:~~

~~"a. Secure customers to purchase, rent or lease property when the
awarding of such prizes, money, free gifts or other valuable consider-~~

~~ation is conditioned upon the purchase, rental or lease; or~~

~~"b. Secure clients to list properties with licensee; or~~

~~"(25)~~ (24) Offering free lots or conducting lotteries for the purpose of influencing a party to purchase or lease real estate. ~~✚✚~~

~~"(26)~~ (25) Failing to include a fixed date of expiration in a written listing agreement or failing to leave a copy of the agreement with the principal. ~~✚✚~~

~~"(27)~~ (26) Conduct which constitutes or demonstrates dishonest dealings, bad faith, or untrustworthiness. ~~✚✚~~

~~"(28)~~ (27) Acting negligently or incompetently in performing an act for which a person is required to hold a real estate license. ~~✚✚~~

~~"(29)~~ (28) Failing or refusing on demand to produce a document, book, or record in his or her possession concerning a real estate transaction conducted by him or her for inspection by the commission or its authorized personnel or representative. ~~✚✚~~

~~"(30)~~ (29) Failing within a reasonable time to provide information requested by the commission during an investigation or after a formal complaint has been filed. ~~✚✚~~

~~"(31)~~ (30) Failing without cause to surrender to the rightful owner, on demand, a document or instrument coming into his or her possession. ~~✚✚~~

~~"(32)~~ (31) If a qualifying broker or company, failing to keep in their files copies of all contracts, leases, listings, and other records pertinent to real estate transactions for a period of three years.

"(b) If it appears that a person, firm, corporation, or any business entity has engaged, or is about to engage, in an act or practice constituting a violation of ~~a provision of~~ article 1 or 2 of this chapter or any rule or order of the commission, the commission, through the attorney general, may institute legal actions to enjoin the act or practice and to enforce compliance with articles 1 and 2 of this chapter or any rule or order of the commission. To prevail in ~~such an~~ such an action, it shall not be necessary to allege or prove either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation ~~thereof~~."

Section 4. The Legislature concurs in the recommendations of

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the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

Yeas 20 Nays 0
Abstaining 2

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, deGraffenried, Dial, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchem, Parsons, Preuit, Sanders, Smith (B), and Wilson -20

Nays:

- 0

Abstaining:

Senators:

Corbett and Windom - 2

Senator Corbett offered the following amendment to the Bill, SB 35, as amended by the substitute, to-wit:

AMENDMENT TO SB 35, AS AMENDED

Amend Senate Bill No. 35, as amended, Page 18 Line 9, as follows:

delete the number "45" and insert in lieu thereof the number "60".

Which was adopted.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Ghee, Hale, Langford, Lindsey, Little, Mitchell, Mitchem, Parsons, Preuit, Sanders, and Smith (B) -19

Nays:

- 0

Senator Bedsole offered the following amendment to the Bill, SB 35, as amended, to-wit:

AMENDMENT TO SB 35, AS AMENDED

On page 5, lines 18 & 22, delete subparagraph (7) in its entirety and insert in lieu thereof the following:

"(7) ~~Person~~ Persons acting as the ~~on-site~~ manager for an apartment building or complex ~~if the manager resides on the premises.~~ However, this exception shall not apply to a person acting as an on-site manager of a condominium building or complex; or

Which was adopted.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Ghee, Hale, Langford, Lindsey, Little, Mitchem, Parsons, Preuitt, Sanders, Smith (B), and Wilson -19

Nays:

- 0

And said Bill, SB 35, as amended by the substitute, as amended, was read a third time at length and passed and ordered sent forthwith to the House upon engrossment.

Yeas 14 Nays 4
Abstaining 3

Yeas:

Senators:

Bailey, Bedsole, Bennett, Bolling, Campbell, Ghee, Langford, Lindsey, Little, Mitchell, Mitchem, Parsons, Preuitt, and Sanders -14

Nays:

Senators:

deGraffenried, Dial, Hale, and Lipscomb

- 4

Abstaining:

Senators:

Barron, Corbett, and Windom

- 3

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bills with the original Senate Bills and finds same correctly engrossed, to-wit:

S. 51. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Funeral Service.

Also:

S. 53. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Indian Affairs Commission with certain modifications; to amend Sections 41-9-708, 41-9-712, 41-9-713, 41-9-715, and 41-9-716, Code of Alabama 1975.

Also:

S. 48. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alcoholic Beverage Control Board.

JIM PREUITT,
Chairperson.

FURTHER CONSIDERATION OF SB 47

The Senate proceeded to further consideration of the Bill, SB 47.

Senator Hale offered the following substitute for the Bill, SB 47, to-wit:

SUBSTITUTE FOR SB 47

**A BILL
TO BE ENTITLED
AN ACT**

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Auctioneers with certain modifications; to amend Sections 34-4-21, 34-4-29, and 34-4-50, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Com-

mittee recommends the continuance of the Board of Auctioneers, with the additional recommendations for statutory changes of the board as set out in Section 3 of this act.

Section 2. The existence and functioning of the Board of Auctioneers, created and functioning pursuant to Sections 34-4-1 to 34-4-54, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Sections 34-4-21, 34-4-29, and 34-4-50 of the Code of Alabama 1975, are amended to read as follows:

"§34-4-21.

"(a) Any person desiring to enter into the auction business and obtain a license as an auctioneer or apprentice auctioneer shall make written application for ~~such~~ a license to the board. Each application shall be accompanied by an examination fee of ~~\$50.00~~ seventy dollars (\$70) which shall be collected from each applicant to defray the expenses of the examination. Also, a fee of ~~\$70.00~~ ninety dollars (\$90) shall be collected from each nonresident applicant who seeks licensing by ~~the~~ reciprocity. The application shall be submitted on forms prepared and furnished by the board.

"(b) Each applicant for a license as an auctioneer shall be ~~of the age of~~ 19 years of age or over, and each applicant for a license as an apprentice auctioneer shall be ~~of the age of~~ 18 years of age or over and shall be a citizen of the United States. Each applicant for an auctioneer's license ~~must~~ shall: (1) have completed a prescribed course of study at an accredited auctioneering school approved by the board; ~~and also must~~ (2) ~~serve~~ have served one year as an apprentice auctioneer under a licensed auctioneer in this state; ~~and must also~~ (3) have been the principal auctioneer in at least five auctions of either real or personal property during this period of time; and (4) furnish satisfactory proof of ~~same~~ these requirements to the board. ~~His~~ An application ~~must~~ shall also be accompanied by a recommendation ~~by his~~ of an employing auctioneer. If ~~the~~ an applicant has not completed a course of study at an accredited auctioneering school, then he ~~will~~ or she shall be required to serve two years as an apprentice under a licensed auctioneer, ~~plus having and shall have been~~ plus having and shall have been the principal auctioneer in at least 10 auctions of real or personal property.

"(c) Any person who files an application with the board in the proper manner shall be entitled to take an oral and written examination to determine his or her qualifications. The board shall require ~~such~~

~~persons applicants~~ to take and pass a written and oral examination establishing in a manner satisfactory to the board that ~~said the~~ applicant has a general knowledge of ethics, reading, writing, spelling, elementary arithmetic, elementary principles of land economics, and a general knowledge of the statutes of this state relating to the bulk sales law, auctions, brokerage, and ~~the provisions of this chapter~~. The examination for an auctioneer's license shall be of a more exacting nature and scope than the examination for an apprentice auctioneer. ~~It shall also be the duty of the~~ The board shall, through such application and examination, ~~to determine whether such the~~ applicant is of good repute, trustworthy, honest, and competent to transact the business of an auctioneer, or of an apprentice auctioneer, in ~~such a manner as to safeguard~~ that safeguards the interest of the public. The board shall require, and it shall be the responsibility of any applicant for an initial, renewal, or reciprocal license to disclose any prior felony conviction, any prior misdemeanor conviction involving moral turpitude, any pending criminal arrest of any nature except misdemeanor traffic violations, and any prior or pending disciplinary proceedings against the applicant before a board of auctioneers or real estate commission in this or any other state. All auctioneers, apprentice auctioneers, and auction firms are under a continuing duty to report to the board any and all such criminal arrests, charges, convictions, or disciplinary proceedings which they may incur, as well as any civil suits involving them. The board must receive notice of any such arrest, charge, criminal conviction, or commencement of disciplinary proceedings within 30 days of its occurrence. Notice of the commencement of any civil suit must be received by the board within 30 days after service of the complaint upon the defendant in the action.

"(d) Any person who is a resident of Alabama and who on April 4, 1988, has a privilege license to engage in, ~~and is has been~~ lawfully engaged in business as an auctioneer ~~and has so been engaged~~ for a period of at least one year prior to ~~said that date, and~~ has been the principal auctioneer in at least five auctions of either real or personal property during this period of time, and furnishes satisfactory proof of ~~same these~~ requirements to the board ~~shall not be required to take an examination, but all such persons shall be entitled to receive a license from the board under the provisions of this chapter without being required to take and pass an examination on proper application thereof and payment of the license fee required by this chapter, provided he makes if the application is made within one year following said that date.~~ Any member or officer of a partnership, association, or corporation who is a resident of Alabama on April 4, 1988, and is lawfully and actively engaged in the auction business under and by virtue of a privilege license ~~theretofore~~ previously issued and held by ~~such the~~ partnership, association, or corporation, ~~shall not be required to take an examination,~~

~~but all such persons shall be entitled to receive a license from the board without being required to take and pass an examination under the provisions of this chapter upon proper application therefor and payment of the license fee required by this chapter, provided he makes if the application is made within one year following said that date. Such an An applicant shall file his or her application and proof with the board no later than one year following April 4, 1988. and the The application and proof shall be accompanied by a bond and license fee in accordance with the provisions of this chapter.~~

"(e) The license fee for each auctioneer shall be an amount to be determined by the board, not to exceed ~~\$70.00~~ one hundred dollars (\$100), and the license fee for each apprentice auctioneer shall be ~~\$25.00~~ forty-five dollars (\$45). ~~Provided, however, that the The license fees for an auctioneer may shall not be increased more than \$10.00 ten dollars (\$10) in any given year.~~

"(f) All licenses shall expire on September 30 of each year following issuance thereof and may be renewed upon payment of the appropriate license fee as required by this chapter. Renewal of ~~such a~~ license may be effected at any time during the months indicated preceding the date of expiration. No examination shall be required for the renewal of any ~~present or future~~ license, unless ~~such the~~ license has been revoked or suspended. If a licensee fails to renew his or her license by the deadline of each year, he or she may have his or her license renewed within 60 days after the expiration date, upon payment of the required fee and ~~upon the payment of a late fee of \$25.00 twenty-five dollars (\$25) for apprentices and a late fee of \$50.00 fifty dollars (\$50) for auctioneers.~~ If ~~he a~~ licensee elects not to pay the penalty and renew his or her license, he or she shall ~~be required to~~ submit an application, pay the examination fee, and take the examination required for new licensees.

"(g) The board shall adopt an annual program of continuing education for its licensees not later than October 1, 1994. After that date, no licensee shall have his or her license renewed unless, in addition to any other requirements of this chapter, the minimum annual continuing education requirements are met. The continuing education program shall not include testing or examination of the licensees in any manner.

"(h) The board shall prepare and deliver to each licensee a license certificate and pocket card. The certificate shall be displayed openly at all times in the office of the licensee. The certificate and the pocket card of the apprentice auctioneer shall contain his or her name

and address as well as that of the auctioneer under whose supervision he or she is employed.

"(i) When any auctioneer discharges an apprentice, or terminates his or her employment with the auctioneer for any reason, ~~it shall be the immediate duty of the auctioneer to~~ shall deliver or mail by registered or certified mail to the board the license of the discharged apprentice auctioneer. It shall be unlawful for any apprentice auctioneer to perform any of the acts contemplated by this chapter, either directly or indirectly under authority of his or her license, until the apprentice auctioneer receives a new license bearing the name and address of his or her new employer. No more than one license shall be issued to any apprentice auctioneer for the same period of time.

"(j) Written notice shall be given immediately to the board by each licensee of any change in his or her mailing address, ~~whereupon and the board shall issue a new license for the unexpired period. A change of mailing address without notification to the board shall automatically cancel the license previously issued. Changing~~ For changing a mailing address and issuance of a new license, ~~shall entitle the board to~~ shall collect a fee of ~~\$5.00~~ five dollars (\$5). Each prior license shall be returned or accounted for to the board and ~~in every event~~ be canceled before the issuance of the new license. The board may require such other proof ~~as shall be~~ considered desirable with due regard to the paramount interest of the public in the issuance of the license.

"(k) Pursuant to Sections 41-22-1 to 44-22-27, inclusive, Code of Alabama 1975 (the Alabama Administrative Procedure Act), ~~The the board shall have the power and authority to~~ may make and enforce any and all such necessary and reasonable rules and regulations connected with pursuant to the application for any license, ~~as shall be considered necessary to administer and enforce the provisions of this chapter provided that such rules and regulations are adopted pursuant to the state administrative procedure statutes.~~

"§34-4-29.

"(a) The board ~~shall have power to~~ may revoke or suspend licenses as ~~herein provided in this section.~~

"(b) The board may, upon its own motion, and shall, upon the verified complaint in writing of any person, ~~provided, that such complaint with the containing evidence, documentary or otherwise, presented in connection therewith,~~ that makes out a prima facie case, ~~hold a hearing as hereinafter provided and~~ investigate the actions of any auctioneer,

~~or apprentice auctioneer, or any person who shall assume~~ assumes to act in either ~~such capacity,~~ and hold a hearing on the complaint.

~~"(c) The board shall have the power to may suspend or revoke any license which has been issued under the provisions of this chapter at anytime where the licensee has by based on false or fraudulent representations, obtained a license or where the licensee is performing or attempting to perform~~ The board may also suspend or revoke the license of any licensee for any of the following acts:

"(1) Making any substantial misrepresentation;_

"(2) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents, ~~or~~ advertising, or otherwise;_

"(3) Accepting valuable consideration as an apprentice auctioneer for the performance of any of the acts specified in this chapter, from any person, ~~except other than~~ his or her employer auctioneer;_

"(4) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into his or her possession, commingling funds of others with his or her own, or failing to keep ~~such~~ funds of others in an escrow or trustee account;_

"(5) Paying valuable consideration to any person for services performed in violation of this chapter;_

"(6) Being convicted in a court of competent jurisdiction of this or any other state of a criminal offense involving moral turpitude or a felony;_

"(7) Violation of any rule or regulation promulgated by the board;_

"(8) Failure to furnish voluntarily at the time of execution copies of all written instruments prepared by the auctioneer or apprentice auctioneer;_

"(9) Any conduct of any auctioneer which demonstrates bad faith, dishonesty, incompetency, or untruthfulness;_

"(10) Any conduct of any auctioneer which demonstrates improper, fraudulent, or dishonest dealings;_

"(11) Failing prior to the sale at public auction to enter into a

written contract with the owner or cosignee of any property to be sold containing the terms and conditions upon which ~~such~~ the licensee received the property for sale;.

"(12) Failure by the auctioneer conducting ~~the~~ an auction to show his or her name and state license number in the advertising of ~~such~~ the auction; ~~or~~.

"(13) Presenting a worthless check to the board.

"(d) Before denying an application for license or ~~before~~ suspending or revoking any license, the board shall ~~in all cases set the matter down for~~ hold a hearing and shall, at least 21 days prior to the date set for ~~such~~ the hearing, notify in writing the accused licensee of the charges made or the question to be determined, including notice of the time and place of the hearing, ~~when and where the charges will be heard,~~ and afford ~~such~~ the licensee an opportunity to be present, ~~and to be heard in person or by counsel, and an opportunity to offer evidence orally, or by affidavit or deposition in reference thereto.~~ Written notice may be served by delivery of the notice personally to the applicant or licensee or by mailing the notice by registered or certified mail to the last known mailing address of ~~such~~ the applicant or licensee. ~~In the event such~~ If the applicant or licensee is an apprentice auctioneer, the board shall also notify the auctioneer employing him or her, or whose employ he or she is about to enter, by mailing notice by registered or certified mail to the auctioneer's last known address. The hearing ~~on such charges shall be at such~~ held at a time and place as the board shall prescribe ~~prescribed by the board.~~

"(e) In addition to the disciplinary powers granted in this section, the board may levy and collect administrative fines for serious violations of this chapter or the rules and regulations of the board of not less than two hundred dollars (\$200) or more than five hundred dollars (\$500) for each violation."

"§34-4-50.

"(a) Within 30 days after September 5, 1973, the Governor shall appoint a state ~~board of auctioneers~~ Board of Auctioneers to be comprised of five members, at least three of whom shall be licensed auctioneers, to begin at the next time for appointment; ~~one~~ One member ~~to shall be appointed~~ for a term of one year, one member ~~to be appointed~~ for a term of two years, one member ~~to be appointed~~ for a term of three years, one member ~~to be appointed~~ for a term of four years, and one member ~~to be appointed~~ for a term of five years. All

subsequent appointments by the ~~governor~~ Governor shall be for a term of five years, to end on the anniversary date of the original appointments, except appointments to fill a vacancy which shall be for the unexpired term only. No member shall serve more than two consecutive terms of office.

"(b) Each member of the board shall be at least 35 years of age and of good moral character and shall have been licensed by the board and actively engaged in the auction business for at least 10 years prior to the appointment.

"(c) The board shall meet within 30 days of the last appointment and elect one of its members ~~chairman~~ as chair, one member as ~~vice-chairman~~ vice-chair, one member as secretary (to serve two years), and such any other officers as considered necessary, and The board may do all things necessary and convenient for carrying into effect the provisions of this chapter. The board shall have power to may make such bylaws, rules, and regulations as it shall consider necessary that are not inconsistent with the provisions of this chapter or other general laws of the state. The board shall adopt a seal for its use, which shall bear thereon the words "state board of auctioneers," 'State Board of Auctioneers,' and the The secretary of the board shall have care and custody thereof of the seal. Copies of all records and papers in the office of the secretary shall be received in evidence in all courts and with like the same effect as the originals. No person on the board of auctioneers shall be eligible to conduct auctions which affect state county, or municipal property."

Section 4. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

Yeas 18 Nays 3

Yeas:

Senators:

Barron, Bedsole, Bennett, Campbell, Corbett, deGraffenried, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Parsons,

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Preuitt, Sanders, and Wilson -18

Nays:

Senators:

Bailey, Bolling, and Dial - 3

And said Bill, SB 47, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 17 Nays 1

Yeas:

Senators:

Bailey, Bedsole, Bennett, Corbett, deGraffenried, Dial, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Parsons, Preuitt, and Wilson -17

Nay: Senator Bolling - 1

MOTIONS IN WRITING

Senator Langford requested and received permission to suspend the Rules in order to offer the following Motion in Writing, to-wit:

I move that the Bill, SB 14, on page 6 of the 10th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 14, referred to the Standing Committee on Rules for placement on the Consent Calendar.

Senator Bedsole requested and received permission to suspend the Rules in order to offer the following Motion in Writing, to-wit:

I move that the Bill, SB 254, on page 66 of the 10th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 254, referred to the Standing Committee on Rules for placement on the Consent Calendar.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 32. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bill & House Messages shall be the paramount and continuing order of business taking precedence over all other matters for the tenth legislative day of the 1992 Regular Session only.

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Election procedures, certification of candidates further provided for, times shortened, Secs. 17-10-12 and 17-16-11 am'd.

On motion of Senator Dial, the Resolution was adopted by the Senate.

**UNFINISHED BUSINESS
BILLS ON THIRD READING RESUMED**

The Senate proceeded to consideration of the Unfinished Business for today, which was the Bill:

S. 95. Authorizing the owner of goods for sale to bring a civil action to recover damages from any person who commits or attempts to commit a theft of the goods and specifying the damages therefor; and providing for a delayed effective date.

and pending deGraffenried substitute, which said substitute is set out in the Journal of the Senate for the Ninth Legislative Day.

On motion of Senator Corbett, the Rules were suspended and further consideration of the Bill, SB 95, and pending substitute, was postponed subject to the call of the Chair.

BUDGET ISOLATION RESOLUTION

Senator Windom requested and received permission to suspend the Rules in order to bring up the Bill, SB 194.

Senator Windom, B.I.R., SB 194, adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, Corbett, deGraffenried, Dial, Ghee, Hale, Langford, Lindsey, Little, Mitchell, Parsons, Preuitt, Sanders, Wilson, and Windom

-18

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 194. Relating to investment of state funds; to amend Section 41-14-30, Code of Alabama 1975, as amended, which sets forth the authority of the state treasurer to deposit funds in state depositories and when funds may be invested in obligations of the United States or its agencies, so as to change the limitation on investment in obligations of the United States, its agencies and instrumentalities to twenty percent of total state moneys, to delete the requirement that investment in such obligations be in maturities of one year or less, to broaden the United States agencies whose obligations may be purchased to all agencies and instrumentalities of the United States, and to money market funds which invest solely in authorized securities, and to set aside from the earnings on such obligations two and one-half percent (2.5%) for payment of administrative expenses of the state treasurer; to provide for severability of the provisions of this act; to provide for the repeal or amendment of conflicting laws; and to provide for an effective date.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, Corbett, deGraffenried, Dial, Ghee, Hale, Langford, Lindsey, Little, Mitchell, Parsons, Preuit, Sanders, Wilson, and Window

-18

Nays:

- 0

MOTIONS IN WRITING

Senator Ghee requested and received permission to suspend the Rules in order to offer the following Motions in Writing, to-wit:

I move that the Bill, SB 27, on page 69 of the 10th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Also:

I move that the Bill, SB 28, on page 69 of the 10th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which were adopted, and the President and Presiding Officer of the Senate ordered said Bills, SB's 27 and 28, referred to the Standing Committee on Rules for placement on the Consent Calendar.

Senator Bolling requested and received permission to suspend the Rules in order to offer the following Motion in Writing, to-wit:

I move that the Bill, SB 89, on page 7 of the 10th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 89, referred to the Standing Committee on Rules for placement on the Consent Calendar.

MESSAGE FROM THE HOUSE

Mr. President:

The House has amended as therein shown and, as amended, has passed the following Senate Bill and returns same herewith to the Senate:

S. 73. To amend Section 17-20-1, Code of Alabama 1975, relating to the division of the state into congressional districts, so as to redistrict the congressional districts based upon the 1990 census.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Windom, the Senate concurred in and adopted the following House amendment to the Bill, SB 73, the title of which is set out in the foregoing Message from the House, to-wit:

SUBSTITUTE FOR SB 73

A BILL TO BE ENTITLED AN ACT

To amend Section 17-20-1, Code of Alabama 1975, relating to the division of the state into congressional districts, so as to redistrict the congressional districts based upon the 1990 census.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 17-20-1, Code of Alabama 1975, is hereby amended to read as follows:

"17-20-1.

"The state is hereby divided into seven congressional districts as follows:

"District 1: Baldwin County, Clarke County, Escambia County, Mobile County, Monroe County: Tract 9857, Tract 9858: Block Group 1: Block 103, Block 104, Block 105, Block 106, Block 107, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124; Block Group 2: Block 246, Block 247, Block 248, Block 251, Block 252, Block 253, Block 254, Block 255; Tract 9859, Tract 9860, Tract 9861, Tract 9862; Washington County.

"District 2: Barbour County, Butler County, Coffee County, Conecuh County, Covington County, Crenshaw County, Dale County, Geneva County, Henry County, Houston County, Lee County, Monroe County: Tract 9856, Tract 9858: Block Group 1: Block 101, Block 102, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230, Block 231, Block 232, Block 233, Block 234, Block 235, Block 236, Block 237, Block 238, Block 239, Block 240, Block 241, Block 242, Block 243, Block 244, Block 245, Block 249, Block 250, Block 256, Block 257, Block 258, Block 259; Montgomery County: Tract 0001: Block Group 1: Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 140, Block 141, Block 152, Block 153, Block 154, Block 155, Block 156, Block 157, Block 158, Block 159, Block 160, Block 161, Block 162, Block 163, Block 164, Block 165, Block 166, Block 167, Block 168, Block 169, Block 170, Block 171, Block 172, Block 173, Block 174, Block 175, Block 176, Block 177, Block 178, Block 179, Block 180, Block 181, Block 182, Block 183, Block 184, Block 185, Block 186, Block 187, Block 191, Block 192; Block Group 2: Block 208; Tract 0002: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109,

Block 110, Block 111, Block 118, Block 119; Block Group 2: Block 201; Tract 0005: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315; Block Group 4: Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421; Tract 0006: Block Group 1: Block 111, Block 118; Tract 0009.85, Tract 0010: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 110, Block 111, Block 113, Block 114; Tract 0011: Block Group 1: Block 101; Tract 0013: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214; Tract 0014: Block Group 1: Block 101, Block 102, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221; Block Group 3: Block 301, Block 302, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412; Block Group 5: Block 505, Block 508, Block 509, Block 510, Block 511, Block 512, Block 515, Block 517, Block 518, Block 519, Block 520; Tract 0015: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120; Block Group 2: Block 201, Block 202, Block 203, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 224, Block 225, Block 226, Block 227, Block 228; Tract 0016, Tract 0017, Tract 0018, Tract 0019,

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Tract 0020: Block Group 1: Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 130; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216; Block Group 3: Block 309, Block 310, Block 311, Block 312, Block 313; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 418; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511; Tract 0021: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120; Block Group 4: Block 401, Block 402, Block 406, Block 407, Block 420, Block 421, Block 422; Tract 0026, Tract 0027, Tract 0028, Tract 0033.01, Tract 0033.02, Tract 0051.01: Block Group 1: Block 148A, Block 148B, Block 149; Block Group 2: Block 212; Tract 0053.01, Tract 0053.02, Tract 0054.01: Block Group 1: Block 108A, Block 108B, Block 109A, Block 109B, Block 110; Block Group 2: Block 204A, Block 204B, Block 204C, Block 204D, Block 205A, Block 205B, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211A, Block 211B, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227; Block Group 3: Block 301, Block 302A, Block 302B, Block 303, Block 304, Block 305, Block 306, Block 307A, Block 307B, Block 308A, Block 308B, Block 309A, Block 309B, Block 309C, Block 310A, Block 310B, Block 311A, Block 311B, Block 312; Block Group 4: Block 401A, Block 401B, Block 402, Block 403A, Block 403B, Block 404, Block 405; Tract 0054.02: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 230; Block Group 3: Block 301, Block 302; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414; Tract 0054.03, Tract 0054.05, Tract 0054.06, Tract 0055: Block Group 1: Block 102A, Block 102B, Block 102C, Block 103, Block 104, Block 105; Tract 0056.01: Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block

308, Block 310, Block 311; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406A, Block 406B, Block 407A, Block 411, Block 412; Block Group 5: Block 501A, Block 501B, Block 501C, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507; Tract 0056.02, Tract 0056.03: Block Group 6: Block 601; Tract 0056.04: Block Group 2: Block 211, Block 212, Block 213, Block 214, Block 215, Block 217, Block 218, Block 219, Block 220, Block 221; Block Group 3: Block 303, Block 304, Block 305, Block 306, Block 307, Block 309, Block 310, Block 313; Block Group 4: Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 427, Block 428, Block 429, Block 430, Block 431, Block 432, Block 433, Block 434; Tract 0057: Block Group 1: Block 119, Block 120, Block 121, Block 122, Block 123, Block 127; Tract 0058: Block Group 1: Block 103, Block 104, Block 105, Block 106, Block 107, Block 109, Block 119, Block 120, Block 121, Block 122, Block 123, Block 152, Block 153, Block 154; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 206, Block 208, Block 209, Block 210, Block 211, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225; Block Group 3: Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331; Block Group 4: Block 401, Block 402; Tract 0059.01: Block Group 2: Block 207, Block 208, Block 209, Block 210, Block 211, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 224, Block 225, Block 226, Block 227, Block 228, Block 236, Block 237; Tract 0060.85: Block Group 1: Block 101A, Block 101B, Block 116A, Block 117, Block 118, Block 135; Block Group 5: Block 501B; Block Group 9: Block 901A, Block 901B; Pike County, Russell County.

"District 3: Autauga County: Tract 0201, Tract 0202, Tract 0203, Tract 0204, Tract 0205, Tract 0206, Tract 0207, Tract 0208: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 109, Block 110A, Block 110B, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118A, Block 118B, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130A, Block 130B, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137A, Block 137B, Block 138, Block 139, Block 140, Block 141, Block 142, Block 143, Block 144, Block 145, Block 147, Block 148, Block 149, Block 150, Block 151, Block

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"District 4: Blount County, Cherokee County, Cullman County, DeKalb County, Etowah County, Fayette County, Franklin County, Jefferson County: Tract 0113: Block Group 1: Block 161E, Block 166A, Block 166B, Block 167; Block Group 2: Block 246B, Block 247B, Block 248B, Block 248C, Block 250, Block 252, Block 253, Block 254A, Block 254C, Block 254D, Block 255, Block 256B, Block 260A, Block 260B, Block 261, Block 263A, Block 263B, Block 263C, Block 264A, Block 264B, Block 264C, Block 264D, Block 265A, Block 265B, Block 266A, Block 266B, Block 267, Block 268, Block 269, Block 270A, Block 270B, Block 270C, Block 270D, Block 271, Block 272; Block Group 5: Block 502, Block 503, Block 504, Block 505A, Block 505B, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517A, Block 517B, Block 518A, Block 518B, Block 519, Block 520, Block 521, Block 522, Block 523, Block 524, Block 525, Block 526, Block 527, Block 528A, Block 528B, Block 529, Block 530, Block 531, Block 532, Block 533A, Block 533B, Block 534, Block 535, Block 536, Block 537A, Block 537B, Block 538, Block 539, Block 540, Block 541A, Block 541B, Block 542A, Block 542B, Block 543, Block 544A, Block 544B; Tract 0114: Block Group 1: Block 119, Block 120; Block Group 2: Block 230, Block 231, Block 232A, Block 232B, Block 232C, Block 232D, Block 232E, Block 233, Block 257, Block 258, Block 259, Block 260A, Block 260B, Block 261; Block Group 3: Block 301A, Block 301B, Block 301C, Block 302, Block 303, Block 304, Block 305C, Block 305D, Block 305E, Block 305G, Block 305H, Block 307; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 414, Block 415, Block 416, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426,

Block 427, Block 428, Block 429, Block 430, Block 431, Block 432, Block 433, Block 434, Block 435, Block 436, Block 437, Block 438, Block 439, Block 440; Tract 0116: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 126, Block 127, Block 129, Block 130, Block 131, Block 132, Block 140, Block 141, Block 142, Block 143, Block 153, Block 154, Block 155, Block 156, Block 157, Block 158, Block 159, Block 196; Tract 0117.03: Block Group 1: Block 101, Block 102, Block 103, Block 104A, Block 104B, Block 104C, Block 105A, Block 105B, Block 105C, Block 106, Block 107, Block 108, Block 109A, Block 109B, Block 109C, Block 110, Block 111, Block 114, Block 115, Block 116; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 206, Block 208, Block 209, Block 211; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305A, Block 305B, Block 306A, Block 306B, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 315, Block 316; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509A, Block 509B, Block 509C, Block 510, Block 511, Block 512, Block 513; Block Group 7: Block 701A, Block 701B, Block 702B, Block 702C, Block 703C, Block 712, Block 713, Block 714, Block 716, Block 718, Block 719, Block 720, Block 726; Block Group 9: Block 901A, Block 901B, Block 902, Block 903, Block 904A, Block 904B, Block 904C, Block 904D, Block 904E, Block 905A, Block 905B, Block 905C, Block 905D, Block 905E, Block 906A, Block 906B, Block 906C, Block 907, Block 908, Block 909A, Block 909B, Block 909C, Block 909D, Block 910A, Block 910B, Block 911B, Block 911C, Block 911D, Block 912B, Block 915B; Tract 0117.04: Block Group 1: Block 101, Block 104, Block 105, Block 106, Block 108, Block 109, Block 110, Block 111, Block 112A, Block 112B, Block 112C, Block 112D, Block 112E, Block 112F, Block 112G, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121A, Block 121B, Block 121C, Block 121D, Block 121E, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141, Block 142A, Block 142B, Block 142C, Block 143, Block 144A, Block 144B, Block 144C, Block 144D, Block 144E, Block 145A, Block 145B, Block 145C, Block 145D, Block 145E, Block 146A, Block 146B, Block 147, Block 148, Block 149, Block 150, Block 151, Block 152, Block 153, Block 154, Block 155, Block 156, Block 157, Block 158, Block 159A, Block 159B, Block 160A, Block 160B; Tract 0117.05: Block Group 1: Block 101, Block 102A, Block 102B, Block 102C, Block 103, Block 104A, Block 104B, Block 105A, Block 105B, Block 105C, Block 105D, Block 105E, Block 105F, Block 105G, Block 106,

Block 107, Block 108A, Block 108B, Block 109, Block 110, Block 111A, Block 111B, Block 113A, Block 113B, Block 114A, Block 114B, Block 114C, Block 115A, Block 115B, Block 118, Block 122A, Block 122C, Block 122D, Block 122E, Block 122F, Block 123, Block 124, Block 125, Block 126A, Block 126B, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133; Block Group 3: Block 301, Block 302A, Block 302B, Block 305, Block 306; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 407; Block Group 6: Block 601, Block 602, Block 603, Block 604A, Block 604B, Block 604C, Block 605A, Block 605B, Block 606A, Block 606B, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616, Block 617, Block 618A, Block 618B, Block 619A, Block 619B, Block 619C, Block 619E, Block 620A, Block 620B, Block 620E, Block 621C, Block 622A, Block 622B, Block 624, Block 625D, Block 625E, Block 628C, Block 629, Block 630, Block 632, Block 635, Block 637, Block 640, Block 641B; Tract 0119.01: Block Group 9: Block 911C, Block 911E, Block 912B, Block 912C, Block 912D, Block 913B; Lamar County, Lawrence County, Marion County, Marshall County: Tract 0301, Tract 0302, Tract 0303: Block Group 1: Block 129; Block Group 2: Block 259; Block Group 4: Block 463, Block 464, Block 465, Block 466A, Block 466B, Block 467, Block 473; Tract 0304: Block Group 1: Block 102, Block 103, Block 104, Block 109, Block 110, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 121, Block 123, Block 124, Block 125, Block 126, Block 127A, Block 127B, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137A, Block 137B, Block 138, Block 139, Block 140A, Block 140B, Block 141, Block 142, Block 143A, Block 143B, Block 144, Block 145, Block 146A, Block 146B, Block 147, Block 148, Block 149, Block 150, Block 151, Block 152, Block 153A, Block 153B, Block 154; Block Group 2: Block 201, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218A, Block 218B, Block 219A, Block 219B, Block 219C, Block 219D, Block 219E, Block 220A, Block 220B, Block 220C, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230, Block 231, Block 232A, Block 232B, Block 232C, Block 232D, Block 232E, Block 232F, Block 232G, Block 233, Block 234, Block 235A, Block 235B, Block 236A, Block 236B, Block 237, Block 238, Block 239, Block 240, Block 241A, Block 241B, Block 242A, Block 242B, Block 243, Block 244, Block 245, Block 246, Block 247, Block 248, Block 249, Block 250, Block 251, Block 252, Block 253A, Block 253B, Block 254, Block 255, Block 256, Block 257, Block 258, Block 259, Block 260, Block 261, Block 262, Block 263; Block Group 3: Block 301, Block 302, Block 303, Block 304A, Block

304B, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333, Block 334, Block 335, Block 336, Block 337, Block 338, Block 339, Block 340, Block 341, Block 342, Block 343, Block 344, Block 345, Block 346, Block 347, Block 348, Block 349, Block 350; Block Group 4: Block 401A, Block 401B, Block 402, Block 403, Block 404A, Block 404B, Block 405A, Block 405B, Block 406A, Block 406B, Block 407A, Block 407B, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 427, Block 428, Block 429, Block 430, Block 431, Block 432, Block 433, Block 434; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 523, Block 524, Block 525, Block 526, Block 527, Block 528, Block 529, Block 530, Block 531, Block 532, Block 533, Block 534, Block 535, Block 536; Block Group 6: Block 601A, Block 601B, Block 601C, Block 601D, Block 602, Block 603A, Block 603B, Block 604A, Block 604B, Block 605, Block 606, Block 607A, Block 607B, Block 608, Block 609A, Block 609B, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616; Tract 0305, Tract 0306, Tract 0307, Tract 0308, Tract 0309.01, Tract 0309.02, Tract 0310, Tract 0311, Tract 0312; Pickens County: Tract 9878: Block Group 1: Block 107, Block 108A, Block 108B, Block 137, Block 138, Block 139, Block 140, Block 141, Block 142, Block 144, Block 145, Block 146, Block 161, Block 162, Block 163, Block 164, Block 165, Block 186, Block 187, Block 188, Block 189, Block 190, Block 191, Block 192, Block 193; Block Group 2: Block 239, Block 240, Block 241, Block 242, Block 244; Tract 9879: Block Group 4: Block 413, Block 414, Block 415, Block 416, Block 425, Block 426, Block 427, Block 428, Block 451, Block 452, Block 453, Block 480, Block 481, Block 482B, Block 483, Block 484, Block 485, Block 486, Block 487, Block 488, Block 489, Block 490, Block 491, Block 495; Walker County, Winston County.

"District 5: Colbert County, Jackson County, Lauderdale County, Limestone County, Madison County, Marshall County: Tract 0303: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122,

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"District 6: Choctaw County, Hale County: Tract 9743: Block

Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107A, Block 107B, Block 108A, Block 108B, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141A, Block 141B, Block 142, Block 143A, Block 143B, Block 144, Block 145, Block 146, Block 147, Block 148, Block 149A, Block 149B, Block 150, Block 151, Block 152, Block 153, Block 154, Block 155, Block 156, Block 157, Block 158, Block 159, Block 160, Block 161, Block 162, Block 163, Block 164, Block 165, Block 166, Block 167, Block 168, Block 169, Block 170, Block 171, Block 172, Block 173, Block 174, Block 175, Block 176, Block 177, Block 178, Block 179, Block 180, Block 181, Block 182; Block Group 2: Block 208, Block 209, Block 210A, Block 210B, Block 210C, Block 211A, Block 211B, Block 211C, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217A, Block 217B, Block 217C, Block 218, Block 219A, Block 219B, Block 220, Block 221, Block 222, Block 223, Block 224, Block 227, Block 228A, Block 228B, Block 229, Block 230, Block 231, Block 232, Block 233, Block 234, Block 235, Block 236, Block 237, Block 264, Block 265, Block 266, Block 267, Block 268, Block 269, Block 270, Block 271, Block 272, Block 273, Block 274, Block 275, Block 276, Block 277, Block 278, Block 279, Block 280, Block 281, Block 282, Block 283, Block 284, Block 285, Block 286; Tract 9744: Block Group 1: Block 103, Block 104, Block 105, Block 106; Jefferson County: Tract 0001: Block Group 1: Block 101, Block 102, Block 103, Block 104; Block Group 2: Block 201, Block 202, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312; Tract 0011: Block Group 2: Block 205B; Tract 0020: Block Group 1: Block 101A, Block 101B, Block 102, Block 106, Block 107, Block 108, Block 110; Block Group 2: Block 201, Block 202, Block 203, Block 208, Block 209, Block 211, Block 212, Block 213, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 226, Block 227, Block 228, Block 229, Block 230, Block 232; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 318, Block 319; Block Group 4: Block 407, Block 408, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416; Tract 0021, Tract 0022: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 113, Block 116, Block 117, Block 118, Block 123; Block Group 2: Block 207, Block 219A, Block 219B, Block 219C, Block 220; Tract 0023.03:

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207B, Block 208A, Block 208B, Block 213, Block 214, Block 218, Block 219, Block 220, Block 222, Block 223A, Block 223B, Block 223C, Block 224A, Block 224B, Block 225, Block 226, Block 227, Block 228, Block 229; Block Group 3: Block 301, Block 302A, Block 302B, Block 302C, Block 302D, Block 302E, Block 302F, Block 303, Block 304, Block 305, Block 313, Block 314, Block 315, Block 316, Block 318, Block 319, Block 320, Block 321, Block 322, Block 337, Block 338, Block 339A, Block 339B, Block 340, Block 341; Block Group 5: Block 501A, Block 501B, Block 502, Block 503A, Block 503B, Block 504, Block 505, Block 506, Block 507B, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520B, Block 521, Block 522, Block 523, Block 524, Block 526, Block 531, Block 532, Block 533, Block 534; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 609, Block 610, Block 611, Block 613, Block 614, Block 615, Block 617, Block 618, Block 621A, Block 621B, Block 622, Block 623, Block 624, Block 625, Block 626, Block 627, Block 630, Block 631, Block 632; Tract 0107.01, Tract 0107.02, Tract 0107.03, Tract 0107.04: Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 307, Block 308, Block 309, Block 310, Block 314, Block 315, Block 316, Block 331, Block 334, Block 338, Block 341, Block 342, Block 343, Block 344; Block Group 8: Block 817, Block 818; Tract 0107.05: Block Group 6: Block 601, Block 609, Block 610, Block 621, Block 626, Block 627, Block 628; Tract 0108.01, Tract 0108.02, Tract 0108.03, Tract 0108.04, Tract 0108.05, Tract 0110, Tract 0111.03, Tract 0111.04, Tract 0111.05, Tract 0111.06, Tract 0111.07, Tract 0111.08, Tract 0112.03, Tract 0112.04, Tract 0112.05, Tract 0112.06, Tract 0112.07, Tract 0112.08, Tract 0112.09, Tract 0112.10, Tract 0113: Block Group 1: Block 101A, Block 101B, Block 101C, Block 101D, Block 101E, Block 102A, Block 102B, Block 102C, Block 102D, Block 102E, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108A, Block 108B, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114A, Block 114B, Block 115A, Block 115B, Block 115C, Block 115D, Block 116, Block 117, Block 118, Block 119A, Block 119B, Block 120, Block 121A, Block 121B, Block 121C, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136A, Block 136B, Block 137A, Block 137B, Block 138, Block 139, Block 140, Block 141A, Block 141B, Block 142A, Block 142B, Block 143, Block 144, Block 145, Block 146, Block 147, Block 148, Block 149, Block 150, Block 151A, Block 151B, Block 151C, Block 151D, Block 151E, Block 152A, Block 152B, Block 153, Block 154, Block 155, Block 156, Block 157, Block 158, Block 159, Block 160A, Block 160B, Block 161A, Block 161B, Block 161C, Block

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Block 126, Block 127, Block 130, Block 134, Block 135; Block Group 2: Block 203, Block 204, Block 205, Block 209, Block 210, Block 211, Block 212, Block 215, Block 222, Block 225; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 707, Block 708; Block Group 8: Block 801, Block 802, Block 803, Block 804, Block 805, Block 806, Block 807, Block 808; Tract 0012, Tract 0013: Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316; Block Group 4: Block 401, Block 402, Block 403, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 415; Tract 0014: Block Group 1: Block 103, Block 104, Block 105, Block 106, Block 107; Block Group 4: Block 413, Block 414, Block 415, Block 416, Block 417, Block 418; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 506, Block 507, Block 513, Block 514; Tract 0015: Block Group 2: Block 204, Block 211, Block 212, Block 213, Block 214, Block 221, Block 222, Block 223, Block 229; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 417; Tract 0020: Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 314, Block 315; Tract 0021: Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216; Block Group 3: Block 301, Block 302, Block 303, Block 308, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319; Block Group 4: Block 403, Block 404, Block 405, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413,

Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 423, Block 424, Block 425, Block 426; Tract 0022, Tract 0023, Tract 0024, Tract 0025, Tract 0029, Tract 0030, Tract 0031, Tract 0032, Tract 0051.01: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107A, Block 107B, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113A, Block 113B, Block 114, Block 115A, Block 115B, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123A, Block 123B, Block 124A, Block 124B, Block 125, Block 126, Block 127, Block 128A, Block 128B, Block 129, Block 130A, Block 130B, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141, Block 142, Block 143, Block 144, Block 145, Block 146, Block 147, Block 150, Block 151, Block 152, Block 153, Block 154, Block 155, Block 156, Block 157, Block 158, Block 159, Block 160, Block 161, Block 162, Block 163, Block 164, Block 165, Block 166, Block 167; Block Group 2: Block 201A, Block 201B, Block 202A, Block 202B, Block 203A, Block 203B, Block 204, Block 205A, Block 205B, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218; Tract 0051.02, Tract 0054.01: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105A, Block 105B, Block 105C, Block 106, Block 107, Block 111, Block 112; Block Group 2: Block 201, Block 202, Block 203; Tract 0054.02: Block Group 1: Block 111, Block 112; Tract 0055: Block Group 1: Block 101, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210A, Block 210B, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230, Block 231, Block 232, Block 233, Block 234, Block 235, Block 236, Block 237, Block 238, Block 239, Block 240, Block 241, Block 242, Block 243, Block 244, Block 245, Block 246, Block 247, Block 248; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333, Block 334, Block 335, Block 336, Block 337, Block 338, Block 339, Block 340, Block 341, Block 342, Block 343; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block

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Block 430, Block 431, Block 432, Block 433, Block 434, Block 435, Block 436, Block 437, Block 438, Block 439; Tract 0059.01: Block Group 1: Block 101, Block 102, Block 103, Block 104A, Block 104B, Block 105A, Block 105B, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114A, Block 114B; Block Group 2: Block 201A, Block 201B, Block 202, Block 203, Block 204, Block 205A, Block 205B, Block 206, Block 212, Block 213, Block 223, Block 229, Block 230, Block 231, Block 232, Block 233, Block 234, Block 235; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 523, Block 524, Block 525, Block 526, Block 527, Block 528, Block 529, Block 530, Block 531, Block 532, Block 533; Block Group 6: Block 601A, Block 601B, Block 602, Block 603, Block 604, Block 605, Block 606A, Block 606B, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616, Block 617, Block 618, Block 619, Block 620, Block 621, Block 622, Block 623, Block 624, Block 625, Block 626, Block 627, Block 628, Block 629, Block 630, Block 631, Block 632, Block 633, Block 634, Block 635, Block 636, Block 637, Block 638, Block 639, Block 640, Block 641, Block 642, Block 643, Block 644, Block 645, Block 646; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705A, Block 705B, Block 705C, Block 706, Block 707, Block 708A, Block 708B, Block 709, Block 710; Block Group 8: Block 801A, Block 801B, Block 802, Block 803, Block 804, Block 805, Block 806, Block 807, Block 808A, Block 808B, Block 809, Block 810A, Block 810B, Block 811, Block 812, Block 813, Block 814, Block 815; Tract 0059.02, Tract 0060.02, Tract 0060.85: Block Group 1: Block 101C, Block 102, Block 103, Block 104, Block 105A, Block 105B, Block 106A, Block 106B, Block 107A, Block 107B, Block 108A, Block 108B, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116B, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141, Block 142, Block 143, Block 144; Block Group 2: Block 201A, Block 201B, Block 202, Block 203; Block Group 3: Block 301A, Block 301B, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block

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Section 2. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Yeas 17 Nays 3

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Dial, Ghee, Lindsey, Mitchell, Mitchem, Parsons, Preuitt, Wilson, and Windom

-17

Nays:

Senators:

Hale, Langford, and Little

- 3

MOTION IN WRITING

Senator Mitchem requested and received permission to suspend the Rules in order to bring up the following Motion in Writing, to-wit:

I move that the Bill, SB 109, on page 9 of the 10th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 109, referred to the Standing Committee on Rules for placement on the Consent Calendar.

BUDGET ISOLATION RESOLUTION

Senator Bennett, B.I.R., SB 200, adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried,

Dial, Ghee, Langford, Lindsey, Little, Mitchell, Mitchem, Parsons,
Pruitt, Wilson, and Windom -18

Nays:

- 0

**SPECIAL ORDER
BILLS ON THIRD READING RESUMED**

The Senate proceeded to consideration of the second special, paramount, and continuing order of business for today, which was the Bill:

S. 200. To amend Sections 17-10-12 and 17-16-11 of the Code of Alabama 1975, relating to primary elections and absentee balloting, to shorten the time period for the delivery of absentee ballots, the filing of declarations of candidacy, and for the certification of candidates.

Senator Bennett offered the following substitute for the Bill, SB 200, to-wit:

SUBSTITUTE FOR SB 200

**A BILL
TO BE ENTITLED
AN ACT**

To amend Sections 17-10-12 and 17-16-11 of the Code of Alabama 1975, relating to primary elections and absentee balloting, to shorten the time period for the delivery of absentee ballots, the filing of declarations of candidacy, and for the certification of candidates for the 1992 election cycle only.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 17-10-12 and 17-16-11 of the Code of Alabama 1975, are amended to read as follows:

§17-10-12.

"Not less than 40 days prior to the holding of any election to which this chapter pertains, and not less than 15 days for the 1992 election cycle only, or in the case of a run-off primary election to which this chapter pertains, not more than seven days after the first primary election, the officer charged with the printing and distribution of the official ballots and election supplies shall ~~cause to be delivered~~ deliver to

the absentee election manager of each county in which the election is held or to the person designated to serve in his or her stead place a sufficient number of absentee ballots, envelopes, and other necessary supplies. If the absentee election manager is a candidate with opposition in the election, he or she shall immediately, upon receipt of such the ballots, envelopes, and supplies, deliver ~~the same~~ them to the person authorized to act in his or her stead place, as provided ~~for~~ in section Section 17-10-13.

"§17-16-11.

"(a) All candidates for nomination to public office or for election to party office in the primary election provided for in this chapter shall file their declaration of candidacy with the state party ~~chairman~~ chair if they seek any ~~office other than a county office (including federal, state, circuit, and or district offices~~ office, or the state senate Senate, and house of representatives House of Representatives), or any other office that is not a county office not later than 5:00 P.M. 60 days before the date of the primary election, and not later than 5:00 p.m. 29 days before the date of the primary election in the 1992 election cycle only. and with All candidates for nomination or election to a county office shall file their declaration with the county party chairman chair if they seek a county office, not later than 5:00 P.M. 60 days before the date of such the primary election, and not later than 5:00 p.m. 29 days before the primary election in the 1992 election cycle only.

"(b) The state party ~~chairman~~ chair shall, no later than 5:00 P.M. 55 days before the primary election, and not later than 27 days before the primary election in the 1992 election cycle only, certify the names of all primary election candidates, except candidates for county offices, to the ~~secretary of state~~ Secretary of State. The county party ~~chairman~~ chair shall, not later than 5:00 P.M. 55 days prior to the date of the primary election, and not later than 27 days before the primary election in the 1992 election cycle only, certify to the probate judge the names of all candidates for nomination to county offices or election to county party offices. The ~~secretary of state~~ Secretary of State shall, not less than 50 days prior to the date of the primary election, and not less than 25 days prior to the primary election in the 1992 election cycle only, certify to the probate judge of every county in which the election is to be held the names of the opposed candidates for nomination to federal, state, circuit, or district offices, the state ~~senate~~ Senate, and ~~house of representatives~~ House of Representatives, and all other opposed candidates to public or party office, except candidates for county offices.

"(c) The probate judge of each county shall have the ballots pre-

pared for the primary election. If a legally qualified candidate for nomination to an office is unopposed when the last date for filing declarations of candidacy has passed, his or her name shall not appear on the ballots to be used in the primary election, and he or she shall be the nominee of the party with which he or she has qualified for the office. If a legally qualified candidate for election to a party office is unopposed when the last date for filing declarations of candidacy has passed, his or her name shall not appear on the ballots to be used in the primary election, and he or she shall be declared elected to the party office for which he or she qualified."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

Yeas 18 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried, Dial, Ghee, Langford, Lindsey, Little, Mitchell, Mitchem, Parsons, Prewitt, Wilson, and Windom -18

Nays:

- 0

And said Bill, SB 200, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 18 Nays 1

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried, Dial, Ghee, Langford, Lindsey, Little, Mitchell, Mitchem, Parsons, Prewitt, Wilson, and Windom -18

Nay: Senator Lipscomb

- 1

BUDGET ISOLATION RESOLUTION

Senator Corbett requested and received permission to suspend the Rules in order to bring up the Bill, SB 246.

Senator Corbett, B.I.R., SB 246, adopted.

Yeas 19 Nays 0

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Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried,
Dial, Ghee, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem,
Parsons, Preuitt, Wilson, and Windom -19

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 246. To amend Section 11-45-9.1, Code of Alabama 1975, which relates to the issuance of a summons and complaint by municipalities for violations of certain Class C misdemeanors and ordinances, so as to provide further for the violations.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried,
Dial, Ghee, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem,
Parsons, Preuitt, Wilson, and Windom -19

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Horn requested and received permission to suspend the Rules in order to bring up the Bill, SB 229.

Senator Horn, B.I.R., SB 229, adopted.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried,
Dial, Ghee, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem,
Parsons, Preuitt, Wilson, and Windom -19

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 229. To make a supplemental appropriation to the Depart-

ment of Finance - Telephone Revolving Fund in the amount of \$3,200,000 from the Alabama Special Educational Trust Fund and \$1,300,000 from the State General Fund for the fiscal year ending September 30, 1992.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 14 Nays 4

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Dial, Ghee, Horn, Lindsey, Lipscomb, Mitchell, Parsons, Preuitt, and Wilson -14

Nays:

Senators:

Corbett, Langford, Little, and Windom - 4

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Buskey (JL):

H. 253. To amend Section 17-16-11 of the Code of Alabama 1975, relating to primary elections so as to shorten the time period for the filing of declarations of candidacy and for the certification of candidates.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 253 - to the Committee on Constitution and Elections

BUDGET ISOLATION RESOLUTION

Senator Windom, B.I.R., HB 26, adopted.

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Yeas 25 Nays 0

Yeas:

Senators:

Bedsole, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial,
Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lipscomb,
Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B),
Smith (J), Waggoner, and Windom -25

Nays:

- 0

FURTHER CONSIDERATION OF HB 26

The Senate proceeded to further consideration of the Bill, HB 26.

And said Bill, HB 26, was read a third time at length and passed.

Yeas 25 Nays 0

Yeas:

Senators:

Bedsole, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial,
Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lipscomb,
Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B),
Smith (J), Waggoner, and Windom -25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Windom, B.I.R., HB 27, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Bedsole, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial,
Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lipscomb,
Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B),
Smith (J), Waggoner, and Windom -25

Nays:

- 0

FURTHER CONSIDERATION OF HB 27

The Senate proceeded to further consideration of the Bill, HB 27.

And said Bill, HB 27, was read a third time at length and passed.

Yeas 25 Nays 0

Yeas:

Senators:

Bedsole, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial,
Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lipscomb,
Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B),
Smith (J), Waggoner, and Windom -25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Little requested and received permission to suspend the Rules in order to bring up the Bill, SB 13.

Senator Little, B.I.R., SB 13, lost, for failure to receive the required three-fifths of those present and voting.

Yeas 14 Nays 1

Yeas:

Senators:

Bennett, Bolling, Campbell, deGraffenried, Horn, Langford, Lindsey,
Lipscomb, Little, Mitchem, Parsons, Preuitt, Wilson, and Windom -14

Nay: Senator Corbett

- 1

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Bill with the original Senate Bill, and finds same correctly enrolled, to-wit:

S. 73. To amend Section 17-20-1, Code of Alabama 1975, relating to the division of the state into congressional districts, so as to redistrict the congressional districts based upon the 1990 census.

JIM PREUITT,
Chairperson.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds

vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Bill, the title of which is set out in the foregoing report from the Committee on Rules.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 200. To amend Sections 17-10-12 and 17-16-11 of the Code of Alabama 1975, relating to primary elections and absentee balloting, to shorten the time period for the delivery of absentee ballots, the filing of declarations of candidacy, and for the certification of candidates for the 1992 election cycle only.

JIM PREUITT,
Chairperson.

REPORT OF SECRETARY

Mr. President:

In accordance with the provisions of Joint Rule 5 of the Senate and House of Representatives, I respectfully report the following Senate Joint Resolutions delivered to the Governor with the date and hour of delivery, to-wit:

SJR 10

SJR 11

SJR 12

Delivered to the Governor, February 27, 1992, at 10:35 A.M.

SB 73

Delivered to the Governor, February 27, 1992, at 5:58 P.M.

MCDOWELL LEE,
Secretary of Senate.

SECRETARY'S REPORT

The foregoing report of the Secretary was read and ordered spread upon the Journal.

ADJOURNMENT

At 5:30 P.M., on motion of Senator Corbett, in accordance with Motion heretofore adopted, the Senate adjourned until Wednesday, March 4, 1992, at 2 o'clock P.M.

ELEVENTH LEGISLATIVE DAY

WEDNESDAY, MARCH 4, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by Mr. William Thetford, Executive Administrator, Trinity Presbyterian Church, Montgomery, Alabama.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Bridgette Knight, Bellingrath Jr. High School, Montgomery, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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REPORT OF COMMITTEE ON RULES ON REVISION OF THE JOURNAL

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Tenth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator deGraffenried, leave of absence was granted Senators Mitchem and Sanders for today.

MOTION TO ADJOURN

Senator deGraffenried moved that when the Senate adjourns today, it adjourn to meet again on Thursday, March 5, 1992, at 10 o'clock A.M., which motion was adopted.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 47. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Auctioneers with certain modifications; to amend Sections 34-4-21, 34-4-29, and 34-4-50, Code of Alabama 1975.

JIM PREUITT,
Chairperson.

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Joint Resolution, your signature thereto is requested.

HJR 110. URGING THE LEGISLATURE AND ALL STATE

AGENCIES, SCHOOL SYSTEMS, AND HIGHER EDUCATION INSTITUTIONS TO PURCHASE RECYCLED PRODUCTS.

**GREG PAPPAS,
Clerk.**

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolution, the title of which is set out in the foregoing Message from the House.

MOTIONS IN WRITING

Senator Foshee requested and received permission to suspend the Rules in order to offer the following Motions in Writing:

I move that the Bill, SB 107, on page 7 of the 11th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Also:

I move that the Bill, SB 247, on page 40 of the 11th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which were adopted, and the President and Presiding Officer of the Senate ordered said Bills, SB 107 and 247, referred to the Standing Committee on Rules for placement on the Consent Calendar.

BUDGET ISOLATION RESOLUTION

Senator Foshee requested and received permission to suspend the Rules in order to bring up the Bill, SB 71.

Senator Foshee, B.I.R., SB 71, adopted.

Yeas 24 Nays 3

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Figures, Floyd, Foshee, Ghee, Hale, Horn, Langford,

Little, Mitchell, Owens, Parsons, Preuit, Waggoner, Wilson, and
Windom -24

Nays:

Senators:

Amari, Ellis, and Lipscomb

- 3

BILLS ON THIRD READING

THE BILL:

S. 71. To amend Sections 41-4-180, 41-4-182 and 41-4-184 of the Code of Alabama 1975, relating to State House police officers and Capitol police officers, so as to require the elected members of the legislative council to employ necessary State House police officers and personnel, to prescribe the jurisdiction, duties, powers and uniforms of said officers, to authorize the legislative council to insure said officers and to further regulate State Capitol police officers' uniforms.

was taken up.

Senator Corbett offered the following substitute for the Bill, SB 71, to-wit:

SUBSTITUTE FOR SB 71

A BILL TO BE ENTITLED AN ACT

To transfer control of the State Capitol Police from the Department of Finance to the Legislative Council and to amend Sections 41-4-180, 41-4-182, 41-4-184, and 41-4-185, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 41-4-180, 41-4-182, 41-4-184, and 41-4-185 of the Code of Alabama 1975, are amended to read as follows:

"§41-4-180.

"There shall be in the department of finance the division of service. The functions and duties of the division of service shall be as follows:

"(1) To provide for the stamping and mailing for each state department, board, bureau, commission, agency and office located and operating in the city of Montgomery and to operate a central mailing room or rooms and service for said departments, boards, bureaus,

commissions, agencies and offices. The director of finance shall direct the delivery of mail to such mailing room or rooms by such of said departments, boards, bureaus, commissions, agencies and officers as he may see fit, ready to be delivered to the United States post office, except that it shall not be stamped with postage stamps or by means of a postage meter. Every piece of mail, when so delivered, shall bear the name of the department, board, bureau, commission, agency or office of the state sending it, and all mail received in a mailing room shall be properly stamped with postage stamps or passed through an authorized postage meter and then delivered to the United States post office. The chief of the division of service shall cause an accurate account to be kept of all pieces of mail from and the postage used on account of each department, board, bureau, commission, agency and office of the state, and the cost of such postage shall be charged by the comptroller against its appropriation for such purpose. Such central mailing rooms shall be conveniently located and shall be kept open for business as long as may be necessary to dispose of all outgoing mail daily. The expenditure of any state funds for postage by any department, board, bureau, commission, agency or office of the state required to deliver its mail to a central mailing room (other than the department of finance) shall be unlawful. This section shall not, however, prevent the stamping or metering of envelopes for the transmittal of unemployment compensation warrants and warrants for the payment of any public assistance benefits in, or the mailing of such envelopes from, the department or departments having charge of the other functions and duties relating to unemployment compensation and public assistance.

"(2) To provide exclusively for all telephone service for each state department, board, bureau, commission, agency and office located and operating in the city of Montgomery and make all contracts and agreements in relation to the telephone service to each of the departments, boards, bureaus, commissions, agencies and offices of the state located and operating in the city of Montgomery. Insofar as practicable, all telephones shall be connected through a central switchboard or switchboards, into which there may be as many trunk lines as the business of the state justifies. The telephone expense of each such department, board, bureau, commission, agency or office of the state shall be charged by the comptroller against its appropriation for such purpose.

"(3) To provide exclusively for all clerical and stenographic services to all state departments, boards, bureaus, commissions, agencies and offices located in the city of Montgomery for part-time or emergency needs, and to operate and maintain a central clerical and stenographic pool for the purpose of providing each department, board, bureau,

commission, agency and office of the state located and operating in the city of Montgomery with all part-time and emergency employees.

"(4) To manage, supervise, maintain, repair, improve, light, heat and clean the Capitol and all buildings and property owned or leased by the state in the city of Montgomery, including monuments and historical sites. In any case in which an appropriation has been or shall be made for such purposes to any department, board, bureau, commission, agency or office of the state for such purpose, the expenses of such services for buildings or property used by it shall be charged by the comptroller to such department, board, bureau, commission, agency or office.

"(5) With the approval of the governor, to allocate space in the Capitol and in all buildings owned or leased by the state in the city of Montgomery for the use of the departments, boards, bureaus, commissions, agencies and offices of the state.

~~"(6) To provide a guard, watchman and police service for the Capitol and the other buildings and property owned or leased by the state and located in the city of Montgomery.~~

"~~(7)~~ (6) With the approval of the governor, to transfer between departments, boards, bureaus, commissions, agencies, offices and institutions of the state any furniture, fixtures, supplies, material, equipment or other personal property.

"~~(8)~~ (7) To sell, exchange or otherwise dispose of any personal property of the state determined by the director of finance not to be needed for public use or to have become unsuited for such use.

"~~(9)~~ (8) To perform such other functions and duties of the department of finance as may from time to time be assigned, by the director of finance.

"§41-4-182.

~~"The director of finance shall employ the necessary state capitol police officers, subject to the state merit system laws, to preserve order, prevent crime, and protect and save from injury persons and property at the capitol and all state buildings and buildings occupied by state departments and agencies within the state of Alabama, and he shall prescribe their duties and the type and color of uniform they shall wear. The legislative council as provided in Section 29-6-1 through Section 29-6-7, Code of Alabama 1975, shall, subject to state merit system laws, employ necessary state capitol police department officers and personnel.~~

Said police officers shall preserve order, prevent crime, protect and save from injury persons and property at the capitol, governor's mansion, state buildings and buildings occupied by state departments and agencies within the state. Said police officers shall also, upon request, protect members of the legislature. The legislative council shall prescribe said police officers' duties and the type and color of uniform they shall wear. Said officers shall be required to meet the minimum standards of law enforcement officers, as provided by the peace officers' standards and training commission, prior to being granted permanent employment status.

"All remaining funds appropriated for the operation of the state capitol police for the present budget year shall be transferred from the finance department to the legislative council. All materials, equipment, vehicles or other property heretofore and presently used or designated for use of the state capitol police department shall be transferred to the legislative council to be used pursuant to the provisions of this act.

"§41-4-184.

"(a) State capitol police officers shall ~~be required to wear a gray uniform~~ wear a uniform unless otherwise directed by the chief of the state capitol police department, or chairman of the legislative council.

"(b) State capitol police officers, when duly appointed, shall have the powers of peace officers in this state and may exercise such powers anywhere within the state.

"§41-4-185.

"(a) All state capitol police officers shall be furnished with uniforms, firearms, ammunition, flashlights and all other equipment necessary for the effective performance of their duties.

"(b) The state department of finance legislative council is authorized, subject to approval by the governor, to insure state capitol police officers in some insurance company or companies authorized to do business in the state of Alabama against personal injury or death caused by accident or violence while discharging their duties as such state capitol police officers; provided, the amount of insurance to be procured as to any such state capitol police officer shall not exceed the amount which would be payable to such state capitol police officer under the workmen's compensation laws of the state of Alabama if such state capitol police officer were privately employed; except, that such policy may provide additional benefits not to exceed \$10,000 per state capitol

police officer for the payment of hospital and medical expenses. The cost of such insurance shall be paid by the ~~state department of finance~~ legislative council out of any funds appropriated to its use, in the manner provided by law."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

On motion of Senator Hale, said substitute was laid on the table.

Yeas 15 Nays 8
Abstaining 1

Yeas:

Senators:

Amari, Barron, Bedsole, Bennett, Bolling, Dial, Dixon, Ellis, Hale, Lipscomb, Mitchell, Owens, Preuit, Smith (J), and Waggoner -15

Nays:

Senators:

Campbell, Corbett, Floyd, Hilliard, Horn, Langford, Little, and Parsons - 8

Abstaining: Senator Ghee - 1

Senator Parsons offered the following amendment to the Bill, SB 71, to-wit:

AMENDMENT TO SB 71

Amend Senate Bill No. 71 Page 5 Line 9, as follows:

After the word order insert the following:

be polite to the public, require the doors of the State House be open while the legislature is in session.

Which was adopted.

Yeas 23 Nays 1

Yeas:

Senators:

Amari, Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Dixon, Floyd, Ghee, Hale, Hilliard, Horn, Langford, Lipscomb, Little, Owens,

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Parsons, Preuitt, Smith (B), Smith (J), Waggoner, and Windom -23

Nay: Senator Ellis - 1

And said Bill, SB 71, as thus amended, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 19 Nays 5

Yeas:

Sensors:

Bedsole, Bennett, Bolling, Campbell, Corbett, Dial, Figures, Floyd, Ghee, Hilliard, Horn, Langford, Little, Mitchell, Owens, Parsons, Preuitt, Smith (J), and Windom -19

Nays:

Sensors:

Amari, Dixon, Ellis, Hale, and Lipscomb - 5

MOTION TO RECONSIDER

At 3:20 P.M., Senator Preuitt moved that the Senate reconsider the vote by which the Bill, SB 35, was passed.

POINT OF ORDER

Senator Corbett requested a ruling of the Chair as to whether the time had elapsed under Senate Rule 29.

STATEMENT BY THE PRESIDENT AND PRESIDING OFFICER

The President and Presiding Officer of the Senate stated that under Senate Rule 29, Senator Preuitt's motion to reconsider was out of order.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senators Lindsey and Bedsole:

S. 375. Relating to oil and gas; empowering the State Oil and Gas Board to authorize and regulate the storage of gas in underground reservoirs, strata, or formations, in conjunction with the condemnation rights conferred by chapter 5, Title 10 of the Code of Alabama 1975,

and the eminent domain procedures prescribed in chapter 1A, Title 18, Code of Alabama 1975, and exempting storage operators from certain privilege taxes.

Committee on Energy and
Natural Resources

By Senator Barron:

S. 376. To amend Section 32-6-1, Code of Alabama 1975, to delete the requirement that the Department of Public Safety shall mail renewal notices to each licensee at least 30 days prior to the expiration date of a driver's license; to provide for notification after 30 days if driver's license has not been renewed and to provide for a 60-day grace period.

Select Committee on
Fiscal Responsibility

By Senator Corbett:

S. 377. To amend Section 34-8-1, Code of Alabama 1975, providing for the definition of a general contractor, to provide further for the definition.

Committee on Economic Affairs

By Senators Corbett, Amari, and Campbell:

S. 378. To amend Act No. 90-650, S. 62, 1990 Regular Session, which establishes the Economic Development Revolving Loan Funds, so as to provide further for the compensation of the members of the committee and to provide that appropriations made pursuant to the act shall not revert into the general fund at the end of the fiscal year.

Committee on Economic Affairs

By Senator Lindsey:

S. 379. Relating to health insurance policies issued in this state that include pregnancy-related benefits; to require coverage for assisted reproductive technology and other infertility treatment as part of the pregnancy-related benefits.

Committee on Banking
and Insurance

By Senator deGraffenried:

S. 380. To amend Section 36-25-9 of the Code of Alabama 1975, to allow real estate brokers, agents, developers, appraisers, mortgage bankers, or certain other persons to serve on state, county, or municipal regulatory boards or commissions; to provide for the membership composition of county or municipal regulatory boards and commissions; and to prohibit members of county or municipal regulatory boards or commissions from voting or participating in matters in which the member has a financial interest.

Committee on Public Welfare

By Senators deGraffenried, Parsons, Little, Barron, and Campbell:

S. 381. To amend Section 16-28-12 of the Code of Alabama 1975, relating to the responsibility of a parent, guardian, or person in charge of a child to ensure that the child enrolls and attends school and conducts himself or herself properly as a pupil; to require principals and superintendents to report suspected violations to the district attorney, to provide criminal penalties for failure to report, and to require district attorneys to vigorously enforce the law; to require local boards of education to establish programs to inform parents of school children of their education-related responsibilities to their children.

Committee on Finance
and Taxation

By Senators deGraffenried, Parsons, Little, Barron, and Campbell:

S. 382. To amend Section 16-3-18.3 of the Code of Alabama 1975, to require certain 10th grade students to enter a vocational or technical curriculum, unless the parent or guardian objects; and to provide for the competency measurement level of the Alabama High School Graduation Exam.

Committee on Finance
and Taxation

By Senators deGraffenried, Parsons, Little, Barron, and Campbell:

S. 383. To require local boards of education to provide to certain students instruction in parental responsibility, the importance of an education, and how to study.

Committee on Finance
and Taxation

By Senators deGraffenried, Parsons, Little, Barron, and Campbell:

S. 384. To provide for school attendance standards and the operation of motor vehicles by certain persons; and to provide a prospective effective date.

Committee on Finance
and Taxation

By Senators deGraffenried, Parsons, Little, Barron, and Campbell:

S. 385. To amend Section 16-3-18.2 of the Code of Alabama 1975, to require local boards of education to establish voluntary tutorial programs.

Committee on Finance
and Taxation

By Senator Campbell:

S. 386. To provide further for the inventory of certain state property and to amend Sections 36-16-8 and 41-1-6 of the Code of Alabama 1975.

Select Committee on
Fiscal Responsibility

By Senator Lindsey (With Notice and Proof):

S. 387. To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Fulton in Clarke County.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 387, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Smith (J):

S. 388. To amend Sections 15-25-1 and 15-25-3 of the Code of Alabama 1975, relating to criminal procedure in examining certain child

victims and witnesses in criminal prosecutions involving sexual offenses perpetrated against and sexual exploitation of children under 16 years of age, to permit leading questions of child victims and witnesses under age 10, at the discretion of the court; and allowing a child victim of physical abuse to be a competent witness to testify without prior qualification.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Bedsole:

S. 389. To amend Sections 12-15-1, 12-15-65, and 12-15-71, Code of Alabama 1975, relating to the Alabama Juvenile Justice Act to provide further for the multiple needs child; to create a state children's services facilitation team and a county children's services facilitation team in each county; to create the Multiple Needs Child Fund; and to appropriate sums from the General Fund and the Special Educational Trust Fund.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senator Bedsole:

S. 390. Relating to honeybees and bee colonies; to provide for the regulation of bee colonies and the regulation of certain pests of honeybees; to provide further for registration fees to be set by the Board of Agriculture and Industries; to authorize the Commissioner of Agriculture and Industries to prohibit the introduction of honeybees into this state upon a determination that honeybee pests present a serious threat to the honeybee industry; for this purpose amending Sections 2-14-1, 2-14-2, 2-14-3, 2-14-4, 2-14-5, 2-14-6, 2-14-9, 2-14-10, 2-14-11, 2-14-12, 2-14-13, and 2-14-14, Code of Alabama 1975.

Committee on Agriculture,
Conservation, and Forestry

By Senator Bedsole:

S. 391. Amending Section 36-27-70, Code of Alabama 1975, to provide for contributing membership service credit eligibility requirements for members of the Employees' Retirement System desiring to purchase prior service credit with a city, county, or a political subdivision of a city or county.

Committee on Finance
and Taxation

By Senators Denton, Waggoner, Amari, and Smith (J):

S. 392. To amend Section 17-1-7 of the Code of Alabama 1975, relating to political activities of certain public employees, so as to regulate further political activities of law enforcement officers and peace officers and to subject said activities to certain criminal penalties.

Committee on Governmental
Affairs/Local Government

By Senator Dixon:

S. 393. Relating to the establishment of a disciplinary alternative program for the rehabilitation of licensed nurses whose professional competency may be impaired or compromised because of substance abuse or because of a physical or mental condition; and to authorize the Alabama Board of Nursing to establish an early identification, intervention, voluntary treatment, and rehabilitation program for those nurses.

Committee on Health

By Senator Dixon:

S. 394. To provide a voluntary checkoff designation on state income tax returns for contributions to the Alabama Ethics Commission.

Committee on Finance
and Taxation

By Senator Dixon:

S. 395. To provide further for the inventory of certain state property and to amend Sections 36-16-8 and 41-1-6 of the Code of Alabama 1975.

Committee on Governmental
Affairs/State Administration

By Senator Lindsey:

S. 396. Relating to sheriffs departments of this state; to clarify the status of the position of chief deputy sheriff and to provide that each county may have a chief deputy sheriff.

Committee on Governmental
Affairs/Local Government

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By Senator Owens:

S. 397. Relating to the Alabama Board of Cosmetology; to provide further for the regulation, teaching, licensing, and practice by cosmetologists, manicurists, and estheticians; to provide further for the powers of the board, for the compensation of its members, and that its rule making powers and the review of its rulings be governed by the Administrative Procedure Act; and to provide for misdemeanor offenses and other fines and penalties; by amending Sections 34-7-1, 34-7-2, 34-7-4, 34-7-5, 34-7-7, 34-7-11, 34-7-12, 34-7-16, 34-7-21, 34-7-24, 34-7-25, 34-7-40, 34-7-41, 34-7-42, 34-7-45, and 34-7-47 of the Code of Alabama 1975.

Committee on Small Business

By Senator Owens:

S. 398. To amend Sections 11-51-90 and 11-51-93, Code of Alabama 1975, relating to municipal business licenses, so as to increase the fees and to increase the penalty for engaging in a business or vocation without a license.

Committee on Governmental
Affairs/Local Government

By Senator Owens:

S. 399. To provide for a special open season for hunting six-point or larger bucks; to provide for a fee and the disposition of the net revenues.

Committee on Energy and
Natural Resources

By Senator Horn:

S. 400. To make an appropriation from the Special Educational Trust Fund to Miles College for the fiscal year ending September 30, 1993.

Committee on Finance
and Taxation

By Senator Horn:

S. 401. To make an appropriation from the State General Fund

to the Epilepsy Foundation of North and Central Alabama for the fiscal year ending September 30, 1993 and to require an operations plan and an audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

By Senators Parsons, Amari, Horn, Waggoner, Bennett, and Hilliard
(With Notice and Proof):

S. 402. Relating to Jefferson County; to allow persons engaged in the businesses of real estate broker or real estate agent to be duly appointed to and to serve on any Jefferson County board or commission dealing with the planning, zoning, or subdivision of real estate in Jefferson County or any municipal board or commission dealing with the planning, zoning, or subdivision of real estate within the municipality within Jefferson County; and to provide for retroactive effect.

Committee on Local
Legislation No. 2

I hereby certify that the notice and proof is attached to the Bill, SB 402, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Horn:

S. 403. To make an appropriation from the Special Educational Trust Fund to the Birmingham Civil Rights Institute, Inc., for the fiscal year ending September 30, 1993.

Committee on Finance
and Taxation

By Senator Horn:

S. 404. To make an appropriation from the Alabama Special Educational Trust Fund for the support and maintenance of the Childrens' Theatre of Alabama for the fiscal year ending September 30, 1993, and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

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By Senator Hilliard:

S. 405. To reopen all component systems and funds of the Retirement Systems of Alabama to allow active and contributing members and former members with vested retirement benefits to claim and purchase credit for a certain amount of military service and to provide for termination of the reopening.

Committee on Finance
and Taxation

By Senator Hilliard:

S. 406. Reducing the service credit requirements for certain retirement for municipal court judges in Class 1 municipalities.

Committee on Finance
and Taxation

By Senators Mitchell and Ghee:

S. 407. To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation ombudsman program, mandatory benefit review conferences, and adjudication of claims by judges of a newly established Workers' Compensation Court; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, and to repeal Sections 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975.

Committee on Rules

By Senators Smith (J) and Denton (With Notice and Proof):

S. 408. Relating to Lauderdale County; exempting senior citizen centers and community centers which primarily sponsor senior citizens' activities from all county and municipal sales and use taxes.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB

408, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Denton:

S. 409. To regulate further municipal elections, candidates for municipal office, campaign contributions, and campaign committees for municipal office candidates; to create the Municipal Fair Campaign Practices Act; to remove the municipal elections, candidates for municipal office, campaign contributions, and campaign committees for municipal candidates from the statewide Fair Campaign Practices Act; to repeal Sections 17-22A-1 to 17-22A-23, inclusive, of the Code of Alabama 1975, regulating state and local office candidates and officials and campaigns or political committees by repealing those sections only to the extent of regulating municipal elections, municipal candidates, and municipal officials, and the campaign committees of municipal candidates; to require certain timely reports and filings with the municipal clerk or other designee and the judge of probate; to prohibit certain soliciting and accepting contributions to influence elections; to impose misdemeanor penalties for violations of the act, and specified fines for the failure to make timely filings or reports; to provide for registration of campaign committees receiving above specified sums; to provide for duties of the campaign treasurer in administering, receiving, expending, and reporting contributions; to provide for acceptable and unacceptable campaign advertising and require identification of responsible person; and to provide for unlawful acts and prescribing penalties.

Committee on Governmental
Affairs/Local Government

By Senator Hale:

S. 410. To amend Section 37-1-11 of the Code of Alabama 1975, relating to compensation of the Public Service Commissioners, to reflect current compensation received by the commissioners; to provide for a method of periodically reviewing and recommending the salaries of the Public Service Commissioners by the State Personnel Board to the Governor; to provide for either an approval or disapproval of a salary increase as determined by the Governor; to provide for terminating a monthly expense allowance and in lieu thereof increasing the salary of the commissioners; and to provide prospective effective dates as to some of the provisions.

Committee on Finance
and Taxation

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By Senator Bennett (With Notice and Proof):

S. 411. Relating to Jefferson County; providing that the salary of the Treasurer shall be the same as the salaries of the Tax Assessor and Tax Collector and shall be paid out of the county general fund and the salary of the Deputy Treasurer shall be thirty-seven thousand, five hundred dollars (\$37,500) per year.

Committee on Local
Legislation No. 2

I hereby certify that the notice and proof is attached to the Bill, SB 411, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Foshee:

S. 412. To amend Sections 34-24-120 and 34-24-122 of the Code of Alabama 1975, to provide for definitions, the practice of chiropractic physicians, and to provide further for the authorities, rights, and duties of chiropractic physicians.

Committee on Economic Affairs

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 35. Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Real Estate Commission with certain modifications; to amend Sections 34-27-2, 34-27-7, 34-27-8, 34-27-31, 34-27-32, 34-27-33, 34-27-34, 34-27-35, and 34-27-36, Code of Alabama 1975.

JIM PREUITT,
Chairperson.

RESOLUTION

Senator Dixon requested and received permission to suspend the

Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 33. SETTING THE DATE AND TIME FOR A JOINT SESSION OF THE ALABAMA LEGISLATURE TO HEAR AN ADDRESS BY HIS ROYAL HIGHNESS PRINCE KHALED BIN SULTAN BIN ABDULAZIZ OF SAUDI ARABIA.

WHEREAS, in Act No. 91-747, SJR 17, 1991 First Special Session, the Legislature of Alabama invited His Royal Highness Prince Khaled Bin Sultan Bin Abdulaziz of Saudi Arabia to address a Joint Session of the Legislature on a mutually convenient date; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That a joint session of the House and Senate be held at 12:30 P.M. on April 28, 1992, for the purpose of hearing the message of His Royal Highness Prince Khaled Bin Sultan Bin Abdulaziz of Saudi Arabia, pursuant to Act No. 91-747, SJR 17 of the 1991 First Special Session.

Which was read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the following Senate Joint Resolution and returns same herewith to the Senate:

SJR 28. RELATIVE TO MEETING DAYS.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Alabama Real Estate Commission.

Respectfully submitted,
G. DENNIS NABORS,
Chief of Staff.

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Done this 19th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have reappointed, subject to your confirmation, Mr. Leon Crawford of Huntsville, Alabama, to the Alabama Real Estate Commission. His term will expire September 30, 1997.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 19th day of February, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to a reappointment to the Alabama Real Estate Commission, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Tuscaloosa City Civil Service Board.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Ms. Ann Odom from Tuscaloosa, Alabama, to the Tuscaloosa City Civil Service Board, replacing Mr. J. Russell Gibson, III. Her term will expire May 15, 1997.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the Tuscaloosa City Civil Service Board, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Tuscaloosa City Civil Service Board.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Mr. Wallace H.

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Lancaster, from Tuscaloosa, Alabama to the Tuscaloosa City Civil Service Board, replacing Mr. Hilliard Fletcher. His term will expire May 15, 1995.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the Tuscaloosa City Civil Service Board, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Alabama Commission on Higher Education.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have reappointed, subject to your confirmation, Ms. Cindy Paler from Decatur, Alabama, to the Commission on Higher Education. Her term will expire August 31, 2000.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 5th day of February, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to a reappointment to the Alabama Commission on Higher Education, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Alabama Commission on Higher Education.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Mrs. Gaynell Dixon from Montgomery, Alabama, to the Alabama Commission on Higher Education replacing Phillip Sellers for the term expiring August 31, 2000.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor,

relative to an appointment to the Alabama Commission on Higher Education, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the State Ethics Commission.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Mr. Frank Mason from Birmingham, Alabama, to the Ethics Commission, replacing Dr. Sandra McLeod. His term will expire September 1, 1995.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 5th day of February, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to appointment to the State Ethics Commission, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the University of North Alabama Board of Trustees.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, the Honorable Ben T. Richardson from Scottsboro, Alabama, to the University of North Alabama Board of Trustees replacing Alex Nelson for the term expiring September 9, 2003.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the University of North Alabama Board of Trustees, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

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Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the University of North Alabama Board of Trustees.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Huston Cobb, Jr. from Leighton, Alabama, to the University of North Alabama Board of Trustees replacing John T. Bulls, Jr. for the term expiring September 9, 2003.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the University of North Alabama Board of Trustees, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to

the University of North Alabama Board of Trustees.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Alex Nelson from Florence, Alabama, to the University of North Alabama Board of Trustees filling the unexpired term of Mary Ella Potts until September 9, 1995.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the University of North Alabama Board of Trustees, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the University of North Alabama Board of Trustees.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

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Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Brenda Morrow from Russellville, Alabama, to the University of North Alabama Board of Trustees replacing Gene Sanderson for the term expiring October 24, 2003.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the University of North Alabama Board of Trustees, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Alabama Forestry Commission.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Mr. Guice Slawson from Louisville, Alabama, replacing Mr. Jack Hopper, to the Alabama Forestry Commission. His term will expire November 5, 1995.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the Alabama Forestry Commission, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Alabama Forestry Commission.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have reappointed, subject to your confirmation, Claude Swift

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from Monroeville, Alabama, to the Alabama Forestry Commission for the term expiring November 5, 1996.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to a reappointment to the Alabama Forestry Commission, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Alabama Forestry Commission.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have reappointed, subject to your confirmation, John Goodson, Jr. from Brent, Alabama, to the Alabama Forestry Commission for the term expiring November 5, 1996.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to a reappointment to the Alabama Forestry Commission, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Alabama Real Estate Commission.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have reappointed, subject to your confirmation, Mrs. Martha B. Harlan from Auburn, Alabama, to the Alabama Real Estate Commission. Her term will expire September 30, 1996.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, rela-

tive to a reappointment to the Alabama Real Estate Commission, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the State Board of Human Resources.

Respectfully submitted,

G. DENNIS NABORS
Chief of Staff.

Done this 4th day of March, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Mr. Henry King of Blountsville, Alabama, to the State Board of Human Resources replacing Jean Sullivan. His term will expire August 28, 1993.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 4th day of March, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the State Board of Human Resources, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Farmers' Market Authority.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Ms. Mary Ann Sheppard from Shorter, Alabama, to the Farmers' Market Authority, replacing Mr. Earl Goodwin. Her term will expire February 1, 1996.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the Farmers' Market Authority, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to

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the Alcoholic Beverage Control Board.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Mr. Michael K. James from Anniston, Alabama, to the Alcoholic Beverage Control Board, replacing Mr. Don Martin, who resigned. His term will expire January 1993.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the Alcoholic Beverage Control Board, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Alabama A & M University Board of Trustees.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Ms. Betty M. Brady from LaFayette, Alabama, to the Alabama A & M University Board of Trustees, replacing Ms. Irmatine Bealyer, who has resigned. Her term will expire January 31, 1994.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the Alabama A & M University Board of Trustees, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Environmental Management Commission.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

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To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Ms. Joanne Elizabeth Boyd from Birmingham, Alabama, to the Environmental Management Commission, replacing Mr. Scott Davis. Her term will expire September 30, 1996.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the Environmental Management Commission, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Alabama State Docks Advisory Committee.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, William Deramus from Selma, Alabama, to the Alabama State Docks Advisory Committee replacing Mayor Joe T. Smitherman for the term expiring September 28, 1995.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the Alabama State Docks Advisory Committee, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the State of Alabama Real Estate Appraisers Board.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have reappointed, subject to your confirmation, Mr. George A.

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Washington from Birmingham, Alabama, to the Alabama Real Estate Appraisers Board for the term expiring September 1, 1994.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to a reappointment to the Alabama Real Estate Appraisers Board, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the State of Alabama Real Estate Appraisers Board.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have reappointed, subject to your confirmation, Mr. Wilbur P. Fowler from Arab, Alabama, to the Alabama Real Estate Appraisers Board for the term expiring September 1, 1994.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to a reappointment to the Alabama Real Estate Appraisers Board, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the State of Alabama Real Estate Appraisers Board.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have reappointed, subject to your confirmation, Mr. C. Lanett Davis from Bessemer, Alabama, to the Alabama Real Estate Appraisers Board for the term expiring September 1, 1994.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, rela-

tive to a reappointment to the Alabama Real Estate Appraisers Board, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Cahaba Trace Commission.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have reappointed, subject to your confirmation, Carol Wadsworth Jones from Prattville, Alabama, to the Cahaba Trace Commission for the term expiring December 31, 1993.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to a reappointment to the Cahaba Trace Commission, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Cahaba Trace Commission.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have reappointed, subject to your confirmation, Jean Martin from Selma, Alabama, to the Cahaba Trace Commission for the term expiring December 31, 1994.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to a reappointment to the Cahaba Trace Commission, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to

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the Cahaba Trace Commission.

Respectfully submitted,

**G. DENNIS NABORS,
Chief of Staff.**

Done this 11th day of February, 1992.

**To the Senate of Alabama
Alabama State House
Montgomery, Alabama**

Lady and Gentlemen:

I have reappointed, subject to your confirmation, Nancy Hefner from Prattville, Alabama, to the Cahaba Trace Commission for the term expiring December 31, 1994.

Respectfully submitted,

**GUY HUNT,
Governor.**

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to a reappointment to the Cahaba Trace Commission, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

**To the Senate of Alabama
Alabama State House
Montgomery, Alabama**

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Cahaba Trace Commission.

Respectfully submitted,

**G. DENNIS NABORS,
Chief of Staff.**

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have reappointed, subject to your confirmation, George Howell, Jr. from Birmingham, Alabama, to the Cahaba Trace Commission for the term expiring December 31, 1994.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to a reappointment to the Cahaba Trace Commission, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Cahaba Trace Commission.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

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Lady and Gentlemen:

I have reappointed, subject to your confirmation, Dr. S. M. Mahan, Jr. from Brierfield, Alabama, to the Cahaba Trace Commission for the term expiring December 31, 1994.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to a reappointment to the Cahaba Trace Commission, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Board of Examiners of Landscape Architects.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have reappointed, subject to your confirmation, William R. Sorenson from Birmingham, Alabama, to the Board of Examiners of

Landscape Architects for the term to expire January 3, 1995.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to a reappointment to the Board of Examiners of Landscape Architects, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Crime Victims Compensation Commission.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have reappointed, subject to your confirmation, Teresa Petelos from Pleasant Grove, Alabama, to the Crime Victims Compensation Commission for the term expiring June 6, 1994.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to a reappointment to the Crime Victims Compensation Commission, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Crime Victims Compensation Commission.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have reappointed, subject to your confirmation, Sergeant Joseph Connick, III from Mobile, Alabama, to the Crime Victims Compensation Commission for the term expiring June 6, 1995.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, rela-

tive to a reappointment to the Crime Victims Compensation Commission, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Board of Public Accountancy.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Joe C. Lawrence from Mobile, Alabama, to the Board of Public Accountancy replacing Yuell Busey for the term expiring October 1, 1995.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the Board of Public Accountancy, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Alabama Educational Television Commission.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Charlie Boman from Gadsden, Alabama, to the Alabama Educational Television Commission replacing Bertha Roberts for the term expiring June 25, 1995.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the Alabama Educational Television Commission, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the State of Alabama Board of Human Resources.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Ann Fortner from Dothan, Alabama, to the Board of Human Resources replacing David Harbinson for the term expiring August 28, 1995.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the Board of Human Resources, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to

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11th Day**

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the Livingston University Board of Trustees.

Respectfully submitted,
G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have reappointed, subject to your confirmation, Winton Wise, of Livingston, Alabama, to the Livingston University Board of Trustees representing the 7th Congressional District. His term will expire December 27, 2003.

Respectfully submitted,
GUY HUNT,
Governor.

Done this 11th day of February, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to a reappointment to the Livingston University Board of Trustees, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Livingston University Board of Trustees.

Respectfully submitted,
G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have reappointed, subject to your confirmation, Joe C. McCorquodale, of Jackson, Alabama, to the Livingston University Board of Trustees as an At Large member. His term will expire December 27, 2003.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 11th day of February, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to a reappointment to the Livingston University Board of Trustees, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Livingston University Board of Trustees.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

**REGULAR SESSION
11th Day**

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Lady and Gentlemen:

I have reappointed, subject to your confirmation, Leigh Pegues, of Montgomery, Alabama, to the Livingston University Board of Trustees as an At Large member. His term will expire December 27, 2003.

Respectfully submitted,

**GUY HUNT,
Governor.**

Done this 11th day of February, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to a reappointment to the Livingston University Board of Trustees, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Livingston University Board of Trustees.

Respectfully submitted,

**G. DENNIS NABORS,
Chief of Staff.**

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, James Joiner, of Florence, Alabama, to the Livingston University Board of Trustees

representing the 5th Congressional District and replacing Mollie Stewart. His term will expire December 27, 2003.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 11th day of February, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the Livingston University Board of Trustees, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Troy State University Board of Trustees.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Richard S. Meador from Mobile, Alabama, to the Troy State University Board of Trustees replacing Dr. Harold Collins for the term expiring October 24, 2003.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the Troy State University Board of Trustees, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Troy State University Board of Trustees.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, the Honorable Gerald Dial from Lineville, Alabama, to the Troy State University Board of Trustees replacing John A. Teague for the term expiring October 24, 2003.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the Troy State University Board of Trustees, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Troy State University Board of Trustees.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 11th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have reappointed, subject to your confirmation, Dr. Doug Hawkins from Troy, Alabama, to the Troy State University Board of Trustees for the term expiring October 24, 2003.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 24th day of January, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to a reappointment to the Troy State University Board of Trustees,

was read and referred to the Standing Committee on Confirmations.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 71. To amend Sections 41-4-180, 41-4-182 and 41-4-184 of the Code of Alabama 1975, relating to State House police officers and Capitol police officers, so as to require the elected members of the legislative council to employ necessary State House police officers and personnel, to prescribe the jurisdiction, duties, powers and uniforms of said officers, to authorize the legislative council to insure said officers and to further regulate State Capitol police officers' uniforms.

JIM PREUITT,
Chairperson.

MESSAGE FROM THE GOVERNOR

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I herewith transmit to you a message from the Governor relative to the Livingston University Board of Trustees.

Respectfully submitted,

G. DENNIS NABORS,
Chief of Staff.

Done this 25th day of February, 1992.

To the Senate of Alabama
Alabama State House
Montgomery, Alabama

Lady and Gentlemen:

I have appointed, subject to your confirmation, Mr. Terry Bunn of

Tuscaloosa, Alabama, to the Livingston University Board of Trustees replacing Ira Drayton Pruitt, Jr. of the 7th Congressional District. His term will expire December 27, 2003.

Respectfully submitted,

GUY HUNT,
Governor.

Done this 25th day of February, 1992.

GOVERNOR'S MESSAGE

The foregoing Message from His Excellency, the Governor, relative to an appointment to the Livingston University Board of Trustees, was read and referred to the Standing Committee on Confirmations.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Campbell:

HJR 57. RELATIVE TO MEETING DAYS.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That when the two houses adjourn today, Wednesday, February 12, 1992, they adjourn to meet again on Tuesday, February 18, 1992.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Floyd, the Rules were suspended and the Resolution, HJR 57, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint

Resolutions and sends same herewith to the Senate for its consideration:

By Reps. Bugg, Smith (R), and Ford:

HJR 86. COMMENDING AMELIA M. "MILLIE" CARTRETT FOR DISTINGUISHED ACHIEVEMENT.

Also:

By Reps. Bugg, Smith (R), and Ford:

HJR 87. COMMENDING HAZEL OLIVER OF GADSDEN, ALABAMA FOR OUTSTANDING COMMUNITY SERVICE.

Also:

By Reps. Bugg, Smith (R), and Ford:

HJR 88. MOURNING THE DEATH OF BERTHA ROBERTS OF GADSDEN, ALABAMA.

Also:

By Reps. Bugg, Smith (R), and Ford:

HJR 89. COMMENDING THE GADSDEN HIGH SCHOOL TIGERS ON THE 1991 STATE CLASS 5A FOOTBALL CHAMPIONSHIP.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Floyd, the Rules were suspended and the Resolutions, HJR's 86, 87, 88, and 89, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Rep. Gaston:

HJR 75. COMMENDING CAROLYN W. NORMAN OF MO-

BILE, ALABAMA, FOR OUTSTANDING PROFESSIONAL ACHIEVEMENT AND COMMUNITY SERVICE.

Also:

By Rep. Gaston:

HJR 76. COMMENDING GLENN R. SEBASTIAN OF MOBILE, ALABAMA, FOR OUTSTANDING PROFESSIONAL ACHIEVEMENT.

Also:

By Rep. Carter:

HJR 77. COMMENDING RESERVE NAVAL MOBILE CONSTRUCTION BATTALION TWENTY-FOUR.

Also:

By Rep. Beasley:

HJR 81. MOURNING THE DEATH OF WILTON R. HOLMAN OF HEADLAND, ALABAMA.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Floyd, the Rules were suspended and the Resolutions, HJR's 75, 76, 77, and 81, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

BUDGET ISOLATION RESOLUTION

Senator Mitchell requested and received permission to suspend the Rules in order to bring up the Bill, SB 116.

Senator Mitchell, B.I.R., SB 116, adopted.

Yeas 19 Nays 0

Yeas:

Senators:

Bailey, Barron, Bedsole, deGraffenried, Denton, Dial, Ellis, Floyd, Foshee, Ghee, Hale, Langford, Lipscomb, Little, Mitchell, Preuit, Smith (B), Waggoner, and Windom -19

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 116. To make supplemental appropriations from the Alabama Special Educational Trust Fund to the Butler County Board of Education and the Dale County Board of Education for the fiscal year ending September 30, 1992, for repairs to any school damaged by windstorm or fire in the counties.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 22 Nays 0

Yeas:

Senators:

Bailey, Bedsole, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Little, Mitchell, Owens, Preuitt, Smith (B), Smith (J), Waggoner, and Windom -22

Nays:

- 0

RESOLUTION

Senators deGraffenried, Wilson, Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Mitchem, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, and Windom offered the following Senate Joint Resolution, to-wit:

SJR 34. MOURNING THE DEATH OF SAMUEL THOMAS BARNES, IV, OF TUSCALOOSA, ALABAMA.

WHEREAS, the Legislature of Alabama grievously records the tragic and untimely death of Samuel Thomas (Tom) Barnes, IV, of Tuscaloosa, Alabama, on January 15, 1992, at the age of just 25 years; and

WHEREAS, Tom Barnes, who was serving as a legislative assistant to U. S. Senator Richard Shelby in Washington, D. C., died as a result of wounds sustained in an apparent random attack, as he walked near his apartment during the early evening hours of January 11th; and

WHEREAS, the son of John Donahue and Susan Strickland

Barnes of Tuscaloosa, Tom attended Auburn University where he was president of Alpha Tau Omega fraternity; he also attended the University of Alabama where he was recognized for academic achievement upon graduation from the University's New College in August 1990; and

WHEREAS, a member of Christ Episcopal Church in Tuscaloosa, Tom Barnes was a fine young man whose future was bright with promise; he was dedicated in his commitment to impact favorably upon the lives of others, and looked upon his work in Washington as an opportunity to achieve that goal; and

WHEREAS, formerly an intern in Senator Shelby's office, Tom became a permanent employee in December 1990 and worked primarily on NASA funding and agricultural issues, two areas of primary importance to his home state; and

WHEREAS, in addition to his parents, Tom is survived by his brother, John D. Barnes, Jr., other family members, and by countless friends, all of whom are sorely bereft in their great and grievous loss; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn his death, we give thanks for the life of Samuel Thomas Barnes, IV, of Tuscaloosa, Alabama, and extend our very deepest sympathy to his family, whose sorrow we share and for whom a copy of this resolution shall be provided.

On motion of Senator deGraffenried, the Rules were suspended and the Resolution was adopted by the Senate.

REPORT FROM RULES

Senator Preuit, Chairperson of the Standing Committee on Rules, reported that said committee, in session, had acted on the following House Joint Resolution and ordered same returned to the Senate with a favorable report, to-wit:

HJR 107. CREATING A BOARD TO COORDINATE THE SUPPORT AND PARTICIPATION BY THE STATE OF ALABAMA IN THE 1996 SUMMER OLYMPICS TO BE HELD IN ATLANTA, GEORGIA.

And on motion of Senator Foshee, said Resolution, HJR 107, was concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Reps. Bugg and Ford:

HJR 90. COMMENDING NELL RANKIN, RECIPIENT OF THE FOURTH ANNUAL ALABAMA PRIZE.

Also:

By Reps. Bugg and Smith (R):

HJR 83. COMMENDING KEITH RIDLEY, DENNIS FEAZELL, BOB BLOM, AND DENISE WHITE FOR OUTSTANDING HEROISM.

Also:

By Reps. Bugg, Smith (R), and Ford:

HJR 84. MOURNING THE DEATH OF ARTHUR RICHARD GREEN OF GADSDEN, ALABAMA.

Also:

By Reps. Bugg, Smith (R), and Ford:

HJR 85. COMMENDING KELLY GAIL ELLIOTT OF GADSDEN, ALABAMA.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Windom, the Rules were suspended and the Resolutions, HJR's 90, 83, 84, and 85, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint

Resolutions and sends same herewith to the Senate for its consideration:

By Reps. Penry and Zoghby:

HJR 91. COMMENDING WILLIAM J. GANDOLFO FOR OUTSTANDING SERVICE TO CHURCH AND COMMUNITY.

Also:

By Rep. Rogers (J):

HJR 92. MOURNING THE DEATH OF BENNIE J. WEBSTER OF INDIANAPOLIS, INDIANA.

Also:

By Rep. Rogers (J):

HJR 93. COMMENDING TORRY DEWAYNE MACK OF BIRMINGHAM, ALABAMA, FOR DISTINGUISHED SERVICE IN THE PERSIAN GULF.

Also:

By Rep. Rogers (J):

HJR 94. RECOGNIZING GREATER SHILOH MISSIONARY BAPTIST CHURCH OF BIRMINGHAM, ALABAMA, ON ITS 100 YEARS OF CHRISTIAN SERVICE TO THE COMMUNITY.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Windom, the Rules were suspended and the Resolutions, HJR's 91, 92, 93, and 94, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Rep. Hogan:

HJR 99. COMMENDING DAVID WAID, WALKER COUNTY'S PARAMEDIC OF THE YEAR.

Also:

By Rep. Morrow:

HJR 100. COMMENDING TERESA ABERNATHY OF RED BAY, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Windom, the Rules were suspended and the Resolutions, HJR's 99 and 100, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolutions and sends same herewith to the Senate for its consideration:

By Rep. Rogers (J):

HJR 95. COMMENDING MR. AND MRS. COLVIN R. ARNOLD ON THEIR MARRIAGE, JUNE, 22, 1991.

Also:

By Reps. Zoghby, Kennedy, Rockhold, Kvalheim, Gaston, Turner, Box, Harper, Clark (W), and Buskey (JE):

HJR 96. COMMENDING TEKO WISEMAN, FIRST LADY OF MOBILE FOR 1991.

Also:

By Reps. Zoghby, Gaston, Kvalheim, McMillan, Rockhold, Clark (W), and Buskey (JE):

HJR 97. MOURNING THE DEATH OF JOSEPH H. LOCKE OF MOBILE, ALABAMA.

Also:

By Reps. Butler, Sanderford, Grayson, Haney, Freeman, and Hall:

HJR 98. COMMENDING JAMES R. THOMPSON, JR., OF HUNTSVILLE, ALABAMA.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Windom, the Rules were suspended and the Resolutions, HJR's 95 and 96, set out in the foregoing Message from the House, were concurred in and adopted by the Senate.

The Resolutions, HJR's 97 and 98, set out in the foregoing Message from the House, were read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Newton (D):

HJR 105. COMMENDING COACH WILLIAM "CAP" BROWN ON HIS 800TH VICTORY.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The Resolution, HJR 105, set out in the foregoing Message from the House, was read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint

Resolution and sends same herewith to the Senate for its consideration:

By Reps. Cosby, Thomas, and Bryant:

**HJR 109. COMMENDING DR. JULIUS R. BROWN FOR
OUTSTANDING ACHIEVEMENT.**

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The Resolution, HJR 109, set out in the foregoing Message from the House, was read and referred to the Standing Committee on Rules.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Turner:

H. 221. To give the Act a title; to amend Section 16-6-1, Code of Alabama 1975 to require the appointment of fifteen members to the Alabama Education Study Commission; the procedure for the appointment of members to the Education Study Commission by the Governor, Lieutenant Governor, the Speaker of the House, State Board of Education, the Alabama Association of School Boards, the Alabama Education Association, and the Business Council of Alabama; to require a system of terms for members of the Alabama Education Study Commission; to change the length of terms for members of the Alabama education study commission, and to cause the terms of the current members of the commission to expire on the effective date of this Act; to establish a per diem for commission members; to amend Section 16-6-2, Code of Alabama 1975 to provide for a quorum for the Alabama Education Study Commission; to amend Section 16-6-5.1, Code of Alabama 1975 relating to the duties and responsibilities of the Standards on Excellence Commission, require the creation of an Education Master Plan to be approved by the state board of education, and to provide for the appointment of a committee of five persons to develop and implement a system to provide grants to individual schools for innovation and improvement of education, to provide for the appointment of this committee by the Alabama Education Study Commission and to provide that the commission shall develop plans for improving parental involvement in

the educational process of children; to amend Section 16-8-1, Code of Alabama 1975 regarding the qualifications for membership on a county board of education to provide that a member of a county board of education have a high school education or a G.E.D. equivalency and after election successfully complete state funded annual boardmanship training as provided by the Alabama Association of School Boards and to provide that certification of the completion of the training be certified to the State Department of Education; to amend Section 16-8-2 of the Code of Alabama 1975, relating to terms of office for county board of education members, to provide further for the length of terms; to amend Section 16-8-23, Code of Alabama 1975 to provide that a county superintendent of education may suspend employees of the local board of education without pay for a period not to exceed ten (10) working days per school year and to provide for a method of providing due process to employees who are so suspended; to amend Section 16-9-1, Code of Alabama 1975; to repeal Section 16-9-12, Code of Alabama 1975; to amend Section 16-11-2, Code of Alabama 1975 regarding the qualifications for membership on a city board of education to provide that a member of a city board of education have a high school education or a G.E.D. equivalency and after appointment successfully complete state funded annual boardmanship training as provided by the Alabama Association of School Boards or any other such organization which shall be approved by the State Board of Education or by legislative act and to provide that certification of the completion of the training be certified to the State Department of Education, and to provide for compensation of members of city boards of education; to amend Section 16-11-1, Code of Alabama 1975 to provide that a city must have population of 15,000 or more inhabitants before said city may establish a city board of education and to repeal any laws conflicting with this requirement; to amend Section 16-13-199, Code of Alabama 1975 to require that a city have a population of 5,000 or more inhabitants before said city may create a city board of education and to repeal any laws conflicting with this section; to amend Section 16-11-3, Code of Alabama 1975 to provide that a member of the city board of education shall take the oath required by the Constitution of the State of Alabama of 1901 before assuming office; to repeal Section 16-11-17, Code of Alabama 1975; to provide for the suspension of employees of a city board of education and to provide a due process system for initiating such a suspension; to amend Section 16-12-1, Code of Alabama 1975 to provide a term of office for city superintendents of education, to provide for termination of a city superintendent and to provide for compensation for a city superintendent; to amend Section 16-23-14, Code of Alabama 1975 to require the State Board of Education to authorize and prescribe minimum standards for each institution of higher education engaged in teacher training so as to require remediation to teacher training graduates who demonstrate a need as reflected by performance-based evalu-

ation for remedial training or development in his or her first three years of employment as a teacher; to repeal Section 16-24-1 through Section 16-24-38, Code of Alabama 1975; to repeal Section 36-26-100, through Section 36-26-108 Code of Alabama 1975; to define teacher, support employee, superintendent, and employing board; to establish criteria for determining teacher tenure, to establish criteria for determining support employee tenure, to define principal, to establish criteria for determining tenure of a principal, to provide for tenured principals, to provide for nontenured principals, compensation for nontenured principals, and election for tenured principals to become nontenured principals, to provide for duties and evaluation of principals, to provide for an appeal of the evaluation of principals, to provide that a contract of an employee is effective until superseded or canceled, to provide that compensation may not be changed for a succeeding year, to provide for the transfer of tenured and nontenured principals, teachers and support employees, to provide for the grounds of cancellation of a teacher contract, to provide a hearing procedure for employees, to provide for an appeal of an employing board's final decision only to the Court of Civil Appeals, to provide for the cancellation of a contract by an employee, to provide for the effect of leave of absence on tenure, and to provide for the abolition of boards of school trustees and the repeal of Sections 16-10-1 through 16-10-11, Code of Alabama 1975, and to repeal all conflicting laws.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 221 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Kennedy:

H. 254. To provide further for the administrative procedures of

the revenue department relating to the taxpayers' rights concerning refunds, penalties, assessments and appeals; to establish new uniform procedures for the administration of taxes administered by the department of revenue; to amend certain sections of Titles 11, 22, 32, 35 and 40 and to repeal certain sections of Titles 9, 22, 32 and 40, Code of Alabama 1975, relating to specific procedures for specific taxes, so as to standardize procedures for administering the revenue laws and to remove certain ambiguities and conflicts; to provide further for penalties; and to provide an effective date.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 254 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Venable:

H. 229. To amend Sections 16-5-8 to 16-5-10, inclusive, Code of Alabama 1975, relating to the Alabama Commission on Higher Education, to prescribe further powers and duties.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 229 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Harper:

H. 236. To amend Section 41-19-3, Code of Alabama 1975, in order to further provide for effective management of state governmental operations.

And sends same herewith to the Senate for its consideration.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 236 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Reps. Zoghby and Kvalheim:

H. 226. To provide further for the boards of trustees of institutions of higher education by amending Sections 16-47-34, 16-48-2, 16-49-24, 16-50-23, 16-51-6, 16-52-6, 16-53-6, 16-54-2, 16-55-3, and 16-56-6 of the Code of Alabama 1975

And sends same herewith to the Senate for its consideration.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate

Standing Committee, as follows:

HB 226 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Harper:

H. 319. To establish the Personnel Control Reform Committee for the review of all personnel hiring requests made by agencies of the State of Alabama; to prohibit such hiring unless favorably recommended by the committee; to provide for the severability of the provisions hereof; and to provide for an effective date.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 319 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Fuller:

H. 247. To provide for the reporting of tax exempt property by any lessee of the property; to provide for reports from the several county tax assessors and to the State Department of Revenue; and to provide penalties.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 247 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Harper:

H. 230. To repeal Section 40-1-32.1 of the Code of Alabama 1975, entitled the Proration Prevention Act of 1988.

And sends same herewith to the Senate for its consideration.

**GREG PAPPAS,
Clerk.**

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 230 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. McKee:

H. 234. To establish the Commission on Economy and Productivity to study and analyze the operation and administration of each agency of state government to determine the means, methods, and manner by which the services of the state may be afforded to the citizens in the most efficient, expeditious, and economical manner; to provide for

the appointment, term of office, payment of expenses, functions, and duties of the members of the commission, to provide for a Legislative Oversight Committee; and to provide for a conditional implementation.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 234 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Buskey (JL):

H. 233. To establish the Alabama Commission to Study the Tax Burden on Alabama Citizens with Low Income; to require the Legislative Fiscal Office and Alabama Department of Revenue to conduct a Tax Burden Study and to assist the Commission created herein; to provide for the powers and duties of said Commission; to provide for the severability of the provisions hereof; and to provide for an effective date.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 233 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Turner:

H. 224. To amend Section 12-2-7, to give the Alabama Court of Civil Appeals exclusive and final jurisdiction of appeals of decisions affecting the tenure of employees of public schools; To amend Section 12-2-2, to provide that the justices of the Supreme Court, shall not have authority to issue writs of certiorari in matters of tenure of employees of the public schools, and to grant exclusive jurisdiction to the Court of Civil Appeals; To amend Section 12-3-10, to require that appeals of decisions affecting the tenure of employees of public schools shall receive preferential and expedited review over certain other civil cases within the exclusive jurisdiction of the Alabama Court of Civil Appeals.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 224 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. McMillan:

H. 227. To create the Commission on the Governance of Higher Education; and to provide an appropriation for the implementation of the act.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 227 - to the Committee on Finance and Taxation

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following Bill:

By Rep. Campbell:

H. 225. To authorize the Alabama Commission on Higher Education to develop a tuition loan program for talented residents to attend a postsecondary institution for the sole purpose and intent of becoming a certified teacher employed in critical need areas of the state.

And sends same herewith to the Senate for its consideration.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 225 - to the Committee on Finance and Taxation

REPORTS OF COMMITTEES

Senator Smith (J), Chairperson of the Standing Committee on Health, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, with amendments, and it was read a second time and placed on the calendar, to-wit:

By Senator deGraffenried (With Substitute)(With Amendments):

S. 115. To establish the 1992 Emergency Medical Services Act

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of Alabama providing for a statewide emergency medical services system; and to repeal Sections 22-18-1 to 22-18-7, inclusive, of the Code of Alabama 1975.

Senator Smith (J), Chairperson of the Standing Committee on Health, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senators Lipscomb, Dial, Ellis, Amari, Hale, Denton, Owens, Bolling, Mitchell, Waggoner, Bailey, and Preuitt:

S. 267. To provide for the prohibition of abortions in the state except to save the life of the mother, or in reported cases of specified rape or incest; to provide certain affirmative defenses for abortions performed when the pregnancy results from rape or incest; to provide that the woman upon whom the abortion is being performed is not subject to criminal penalties; to provide criminal penalties for the crime of abortion; to provide certain reporting requirements and criminal penalties for failing to report; and to repeal Section 13A-13-7 of the Code of Alabama 1975.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Floyd:

S. 290. To amend Section 6-2-8 of the Code of Alabama 1975, relating to the suspension of the limitation on commencing a civil action and on exercising certain civil rights due to disabilities by prisoners.

By Senator Floyd:

S. 291. To amend the Alabama Juvenile Justice Act, Sections 12-15-1, 12-15-33, 12-15-65, 12-15-71.1, Code of Alabama 1975, so as to define further the term "Delinquent Act"; to provide further for the transfer of certain cases to the juvenile court from other courts; to provide further for the proceeding to allow a child to withdraw from school; and to correct typographical errors in certain Code citations.

By Senators Hale and Denton:

S. 313. To provide for the criminal offenses of theft of property by shoplifting in the first, second, and third degrees; to prescribe pen-

alties for the offenses; to amend Sections 13A-8-4 and 13A-8-5 of the Code of Alabama 1975, to provide further for the offenses of theft of property in the second and third degrees; and to provide for a delayed effective date.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senator Floyd (With Amendment):

S. 315. Relating to the manner and location of execution of persons convicted of a capital offense to provide for execution of the death sentence by lethal injection.

Senator Ellis, Chairperson of the Standing Committee on Judiciary/Criminal Justice and Public Safety, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senators Mitchem and Hale:

S. 365. To amend Section 13A-5-40, Code of Alabama 1975, to include within the list of crimes punishable as capital offenses: murder when the victim is under fourteen years of age; murder in which the victim is killed while in a dwelling by a deadly weapon fired from outside that dwelling; murder in which the victim is killed while in a motor vehicle by a deadly weapon fired from outside that motor vehicle; and murder in which the victim is killed by a deadly weapon fired from a motor vehicle.

Senator Mitchell, Chairperson of the Standing Committee on Governmental Affairs/State Administration, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with amendment, and it was read a second time and placed on the calendar, to-wit:

By Senator Lindsey (With Amendment):

S. 258. To amend Section 36-26-35, Code of Alabama 1975, which provides for the maximum amount of annual leave that may be accrued by state employees, so as to provide further for the leave

accrued by law enforcement officers in the department of public safety.

Senator Denton, Chairperson of the Standing Committee on Governmental Affairs/Local Government, reported that said committee, in session, had acted on the following bills and ordered same returned to the Senate with a favorable report, and they were severally read a second time and placed on the calendar, to-wit:

By Senator Floyd:

S. 206. To provide that probate record files be consolidated into one well-bound record book.

By Senator Denton:

S. 273. Relating to the conduct of municipal elections; amending Sections 11-46-5, 11-46-24, and 17-9-4, respectively, of the Code of Alabama 1975, to: (1) further provide for municipalities having general and run-off elections at a time different from Article 2, Chapter 46 of Title 11, Code of Alabama 1975, to allow a change of time, by ordinance, consistent with that article; (2) provide for the number of qualified voters assigned to the electronic voting machines in municipal elections; (3) establish the minimum time before an election that election officials may be named.

Senator Ghee, Chairperson of the Standing Committee on Constitution and Elections, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, with substitute, and it was read a second time and placed on the calendar, to-wit:

By Rep. Buskey (JL)(With Substitute):

H. 253. To amend Section 17-16-11 of the Code of Alabama 1975, relating to primary elections so as to shorten the time period for the filing of declarations of candidacy and for the certification of candidates.

Senator Preuit, Chairperson of the Standing Committee on Rules, reported that the following Bills have been placed on the Consent Calendar for today, to-wit:

By Senator Langford:

S. 15. To amend Section 41-4-113 of the Code of Alabama

1975, relating to procedures for purchase of materials and supplies by state departments.

By Senator Floyd:

S. 209. To establish certain due process rights for persons under investigation by the Department of Human Resources for alleged child abuse and/or neglect.

By Senator Floyd:

S. 203. To direct the Department of Corrections and the Board of Pardons and Paroles to perform certain investigations and procedures in domestic violence and related cases.

MOTION TO ADJOURN LOST

At 4:35 P.M., Senator Dixon moved that the Senate adjourn until Thursday, March 5, 1992, at 10 o'clock A.M., which motion was lost.

MOTIONS IN WRITING

Senator Bailey offered the following Motion in Writing, to-wit:

I move that the Bill, SB 86, on page 53 of the 11th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 86, referred to the Standing Committee on Rules for placement on the Consent Calendar.

Senator Dixon offered the following Motions in Writing, to-wit:

I move that the Bill, SB 251, on page 18 of the 11th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Also:

I move that the Bill, SB 252, on page 31 of the 11th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which were adopted, and the President and Presiding Officer of

the Senate ordered said Bills, SB's 251 and 252, referred to the Standing Committee on Rules for placement on the Consent Calendar.

REPORT FROM RULES

Senator Preuitt, Chairperson of the Standing Committee on Rules, reported that said committee, in session, had acted on the following Senate Joint Resolution and ordered same returned to the Senate with a favorable report, to-wit:

SJR 33. SETTING THE DATE AND TIME FOR A JOINT SESSION OF THE ALABAMA LEGISLATURE TO HEAR AN ADDRESS BY HIS ROYAL HIGHNESS PRINCE KHALED BIN SULTAN BIN ABDULAZIZ OF SAUDI ARABIA.

And on motion of Senator Dixon, said Resolution, SJR 33, was adopted by the Senate.

RESOLUTION

Senators Little and Dixon offered the following Senate Joint Resolution, to-wit:

SJR 35. COMMENDING WILLIAM C. CHANDLER OF MONTGOMERY, ALABAMA.

WHEREAS, it is with great pleasure that the Legislature of Alabama commends William C. "Bill" Chandler of Montgomery, Alabama, as the recipient of the 1991 Citizen of the Year Award by The Montgomery Advertiser and The Alabama Journal; and

WHEREAS, Bill Chandler, as general manager of the Montgomery YMCA since 1953, has impacted greatly upon the lives of thousands of Montgomery youth whose integrity, sense of responsibility and achievements speak eloquently of Mr. Chandler's profound and positive influence during their formative years; and

WHEREAS in addition, however, to his commitment in service to youth, Mr. Chandler has extended his endeavors to encompass numerous areas of concern and, as an active and energetic civic leader, has earned the very highest regard of the Montgomery community; and

WHEREAS, Mr. Chandler, who is past president of Lions Club International, the Montgomery Lions Club, and the Blue and Gray Association, also has provided leadership to the Biracial Committee, now

One Montgomery, which promotes racial communication in the community; the Gift of Life Foundation, a leading force in efforts to reduce infant mortality in the Montgomery area; and countless other programs and activities of public interest and concern; and

WHEREAS, Bill Chandler, with a seemingly unlimited capacity for work, has indeed served long and well to the betterment of his community; he is a man of great honor and integrity who exemplifies the finest moral and civic leadership, and his continuous perseverance in service to others is much to be admired; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with the citizens of Montgomery in tribute to the notable contributions of William C. "Bill" Chandler, a distinguished Alabamian in whom we are justly proud and for whom a copy of this resolution shall be provided.

On motion of Senator Little, the Rules were suspended and the Resolution was adopted by the Senate.

BUDGET ISOLATION RESOLUTION

Senator Bedsole, B.I.R., HB 36, adopted.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Figures, Foshee, Ghee, Hale, Hilliard, Horn, Lipscomb, Mitchell, Owens, Parsons, Preuitt, Smith (B), Smith (J), Waggoner, and Windom

-25

Nays:

- 0

FURTHER CONSIDERATION OF HB 36

The Senate proceeded to further consideration of the Bill:

H. 36. Relating to the City of Wilmer in Mobile County; to amend Section II of Act No. 470, H. 952, 1939 Regular Session (Local Acts 1939, p. 298) as amended, which created and established the countywide civil service system in Mobile County, so as to provide further for exemptions and to provide for municipal employees to vote for removal from said system.

having been postponed on the Tenth Legislative Day was taken up.

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And said Bill, HB 36, was read a third time at length and passed.

Yeas 25 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Figures, Foshee, Ghee, Hale, Hilliard, Horn, Lipscomb, Mitchell, Owens, Parsons, Preuitt, Smith (B), Smith (J), Waggoner, and Windom
-25

Nays:

- 0

BUDGET ISOLATION RESOLUTION

Senator Langford, B.I.R., SB 15, adopted.

Yeas 22 Nays 1

Yeas:

Senators:

Bailey, Barron, Bedsole, Bolling, deGraffenried, Dial, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Smith (J), Waggoner, and Windom
-22

Nay: Senator Amari

- 1

BILLS ON THIRD READING RESUMED

THE BILL:

S. 15. To amend Section 41-4-113 of the Code of Alabama 1975, relating to procedures for purchase of materials and supplies by state departments.

was read a third time at length and passed, and ordered sent forthwith to the House.

Yeas 24 Nays 1

Yeas:

Senators:

Bailey, Bedsole, Bolling, Corbett, deGraffenried, Denton, Dial, Ellis, Figures, Floyd, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Smith (J), Waggoner, Wilson, and Windom
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Nay: Senator Amari

- 1

BUDGET ISOLATION RESOLUTION

Senator Floyd, B.I.R., SB 209, adopted.

Yeas 24 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, deGraffenried, Denton, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuit, Smith (B), Smith (J), Waggoner, and Windom -24

Nays:

- 0

BILLS ON THIRD READING RESUMED

THE BILL:

S. 209. To establish certain due process rights for persons under investigation by the Department of Human Resources for alleged child abuse and/or neglect.

was taken up.

The Standing Committee on Judiciary/Civil reported the following substitute for the Bill, SB 209, to-wit:

SUBSTITUTE FOR SB 209

**A BILL
TO BE ENTITLED
AN ACT**

To establish certain due process rights for persons under investigation by the Department of Human Resources for alleged child abuse and/or neglect; and to amend Section 26-14-8, Code of Alabama, 1975, as amended, relating to the statewide central registry for reports of child abuse and neglect so as to further provide for the release of such information and the removal of names from the central registry.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Any person who comes under investigation by the Department of Human Resources for the abuse or neglect of a child or

children and who is employed by, serves as a volunteer for, holds a license or certificate for, or is connected with any facility, agency, or home which cares for and controls any children and which is licensed, approved, or certified by the state, operated as a state facility, or any public, private, or religious facility or agency that may be exempt from licensing procedures shall be granted the following due process rights by the Department of Human Resources:

(a) The Department shall notify the alleged perpetrator that an investigation has commenced against him after such investigation has officially begun. The notice shall be in writing and shall state the name of the child or children allegedly abused, the date or dates that the alleged abuse is thought to have occurred, and the substance of the person's actions which are alleged to be abusive. The Department shall establish and maintain written policies outlining the specifics of such notification and other policies deemed necessary and prudent by the Department to inform the alleged perpetrator of his rights and the procedures utilized by the Department involving child abuse and neglect investigations.

(b) If the Department conducts an investigation relating to child abuse/neglect, the alleged perpetrator shall be notified of the investigator's conclusions.

(c) If the Department's investigators conclude that child abuse/neglect is indicated, an investigative hearing may be held to confirm or reject the investigators conclusions.

(d) The alleged perpetrator shall be given ten departmental working days from the receipt of the notification of the investigator's conclusions to request a hearing, and such request must be in writing. If no such request is received in the Department's office within ten departmental working days, the alleged perpetrator's opportunity for a hearing shall be considered waived by the Department.

(e) The employer of an alleged perpetrator shall not be notified of the investigator's conclusions prior to a hearing or its waiver unless, in the opinion of the Department's investigators, a child is in danger of abuse or neglect; in such case, any person in a position to discover, prevent or protect the child from his abuse or neglect may be informed of information gathered in the investigation prior to a requested investigative hearing for the alleged perpetrator.

(f) The alleged perpetrator shall be notified of the date, time, and place of any investigative hearing. Such hearing shall not be open to the public.

(g) The alleged perpetrator shall have the following rights at any Departmental investigative hearing:

- 1) The right to present his case himself or be represented by legal counsel or any other person.**
- 2) The right to present written evidence, oral testimony, and witnesses.**
- 3) The right to be provided by the Department a short and plain written statement of the matters asserted which will be presented at the hearing.**
- 4) The right to review and copy at cost any written or recorded statement made by the alleged perpetrator to departmental personnel in the course of the child abuse/neglect investigation. This request must be made prior to the date for the hearing.**
- 5) The right to review and copy at cost, before or during the hearing, the written material and other evidence in possession of the Department which will be placed into evidence at the hearing.**
- 6) The right to inspect any exculpatory evidence which may be in the possession of departmental investigators, and the right to be informed of such evidence if known by departmental investigators before the hearing; provided, that a request for such evidence is made at least five working days prior to the date set for the hearing.**
- 7) The right to review and copy at cost all non-confidential Department documents pertinent to the case, including written policies and rights.**
- 8) The right to cross-examine witnesses testifying at the hearing.**
- 9) The right to request issuance of subpoenas to witnesses and compel attendance. This request must be received no later than ten calendar days prior to the hearing, unless a shorter time is agreed upon by the hearing officer.**
- 10) The right to review and copy at cost all documents in**

the official hearing file maintained by the hearing officer.

- 11) The right to have a hearing officer appointed who shall be disinterested, fair, and impartial.

(h) The Department of Human Resources or its investigative hearing officers shall have the power and authority to issue subpoenas to compel attendance by and production of documents from any witness. Subpoenas may be served in the same manner as subpoenas issued out of any circuit court. Where any witness has been summoned by the Department of Human Resources, its Commissioner or any of his agents, and said witness refuses to appear, testify, or produce records or documents as requested; then any circuit court in this state, or any judge thereof, on application, may issue an attachment for such person and compel him to comply with such order and the court or judge shall have power to punish for contempt in cases of disobedience of such order.

(i) The Department of Human Resources shall establish policies and written guidelines for the conduct and procedures involved in an investigative hearing. At such hearing, the fact that there was a finding by a juvenile court judge or by a criminal court that child abuse or neglect has occurred shall be presumptive evidence that the report should be marked indicated.

(j) The hearing officer shall notify the alleged perpetrator in writing of the hearing officer's decision.

(k) Results of investigative hearings:

- 1) If the hearing officer concludes that child abuse and/or neglect is "indicated," such findings and evidence shall be filed with the appropriate district attorney and other law enforcement officials which the Department may deem necessary.
- 2) The alleged perpetrator's employer or licensing/certifying agency or group may also be notified of the "indicated" findings. Such notification shall be marked "Confidential" and "To Be Used Only For The Purpose Of Discovery Or Preventing Child Abuse." The Department shall establish written policies for notification of employers, prospective employers and licensing/certifying agencies or groups.

Section 2. Section 26-14-8, Code of Alabama, 1975, is hereby

amended to read as follows:

"(a) For the purposes of this section, the following words shall have the following meanings, respectively:

(1) Indicated. When credible evidence and professional judgment substantiates that an alleged perpetrator is responsible for child abuse or neglect.

(2) Not indicated. When credible evidence and professional judgment does not substantiate that an alleged perpetrator is responsible for child abuse or neglect.

~~(a)~~ (b) The state department of human resources shall establish a statewide central registry for reports of child abuse and neglect made pursuant to this chapter. The central registry shall contain, but shall not be limited to:

(1) All information in the written report;

(2) Record of the final disposition of the report, including services offered and services accepted;

(3) The names and identifying data, dates, and circumstances of any persons requesting or receiving information from the registry;

(4) The plan for rehabilitative treatment; and

(5) Any other information which might be helpful in furthering the purposes of this chapter.

~~(b)~~ (c) The state department of human resources shall establish and enforce reasonable rules and regulations governing the custody, use, and preservation of the reports and records of child abuse and neglect. The use of such reports and records shall be limited to the purposes for which they are furnished and by the provisions of law under which they may be furnished. The reports and records of child abuse and neglect shall be confidential, and shall not be used or disclosed for any purposes other than:

(1) To permit their use to prevent or to discover abuse or neglect of children through the information contained therein; or

(2) For investigation of child abuse or neglect by the police or other law enforcement agency; or

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(3) For use by a grand jury upon its determination that access to such reports and records is necessary in the conduct of its official business; or

(4) For use by a court where it finds that such information is necessary for the determination of an issue before the court; or

(5) For use by any person engaged in bona fide research who is authorized to have access to such information by the commissioner of the state department of ~~pensions and security~~ human resources; or

(6) For use by any person authorized by a court to act as a representative for an abused or neglected child who is the subject of a report; or

(7) For use by a physician who has before him a child whom he reasonably suspects may be abused or neglected; or

(8) For use by an attorney or guardian ad litem in representing or defending a child or its parents or guardians in a court proceeding related to abuse or neglect of said child.

(d) The names of persons or information in the investigative report placed on the state's central registry which may be made available to the alleged perpetrator's employer, prospective employer, or others are those cases that the Department of Human Resources or the investigative hearing officer has determined child abuse or neglect to be indicated; provided, however, that in all other cases a hearing officer may make a determination or finding regarding the facts of the case and that said facts are reasonably related to whether the alleged perpetrator should be allowed to have regular and substantial contact with children and that said facts should be shared in order to protect children from abuse or neglect in residential programs and/or day care facilities as defined under the Child Care Act, Code of Alabama, 1975, Section 38-7-1 through Section 38-7-18.

(e) In the case of any child abuse or neglect investigation which is determined to be "not indicated," the alleged perpetrator may request after five years from the completion of the investigation that his or her name be expunged from the central registry so long as the Department of Human Resources has received no further reports concerning the alleged perpetrator during said five years, at which time the department shall expunge said name.

~~(e)~~ (f) Any violation of this provision of confidentiality shall be

a class A misdemeanor. ~~and punishable accordingly.~~"

Section 3. SEVERABILITY. In the event any section, sentence, clause, or provision of this Act is declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity of the remaining sentences, clauses, or provision of this Act, which shall continue effective.

Section 4. REPEALER. All laws or parts of laws which conflict with this Act are hereby repealed.

Section 5. EFFECTIVE DATE. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

MESSAGE FROM THE HOUSE

Mr. President Pro Tem:

The Speaker of the House having signed the following House Bills, your signature thereto is requested.

H. 26. Relating to Mobile County, amending Act No. 91-370, H. 891, 1991 Regular Session, which provides for the compensation of the license commissioner, so as to correct a typographical error.

Also:

H. 27. Relating to Mobile County, amending Act No. 722, H. 1196, 1976 Regular Session, relating to issuance fees, so as to provide further for such fees.

GREG PAPPAS,
Clerk.

SIGNING OF BILLS

The President Pro Tempore of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles have been publicly read at length by the Secretary of the Senate, signed the foregoing Bills, the titles of which are set out in the foregoing Message from the House.

MESSAGE FROM THE HOUSE

Mr. President Pro Tem:

The Speaker of the House having signed the following House Joint

Resolutions, your signature thereto is requested.

HJR 57. RELATIVE TO MEETING DAYS.

Also:

HJR 75. COMMENDING CAROLYN W. NORMAN OF MOBILE, ALABAMA, FOR OUTSTANDING PROFESSIONAL ACHIEVEMENT AND COMMUNITY SERVICE.

Also:

HJR 76. COMMENDING GLENN R. SEBASTIAN OF MOBILE, ALABAMA, FOR OUTSTANDING PROFESSIONAL ACHIEVEMENT.

Also:

HJR 77. COMMENDING RESERVE NAVAL MOBILE CONSTRUCTION BATTALION TWENTY-FOUR.

Also:

HJR 81. MOURNING THE DEATH OF WILTON R. HOLMAN OF HEADLAND, ALABAMA.

Also:

HJR 86. COMMENDING AMELIA M. "MILLIE" CARTRETT FOR DISTINGUISHED ACHIEVEMENT.

Also:

HJR 87. COMMENDING HAZEL OLIVER OF GADSDEN, ALABAMA FOR OUTSTANDING COMMUNITY SERVICE.

Also:

HJR 88. MOURNING THE DEATH OF BERTHA ROBERTS OF GADSDEN, ALABAMA.

Also:

HJR 89. COMMENDING THE GADSDEN HIGH SCHOOL

TIGERS ON THE 1991 STATE CLASS 5A FOOTBALL CHAMPIONSHIP.

GREG PAPPAS,
Clerk.

SIGNING OF RESOLUTIONS

The President Pro Tempore of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolutions, the titles of which are set out in the foregoing Message from the House.

FURTHER CONSIDERATION OF SB 209

The Senate proceeded to further consideration of the Bill, SB 209. The question was on the Committee substitute.

MOTION TO ADJOURN LOST

At 5:10 P.M., Senator Amari moved that the Senate adjourn until Thursday, March 5, 1992, at 10 o'clock A.M., which motion was lost.

Yeas 7 Nays 15

Yeas:

Senators:

Amari, Bedsole, Corbett, Figures, Langford, Parsons, and Waggoner - 7

Nays:

Senators:

Bailey, Bennett, Bolling, Campbell, deGraffenried, Denton, Dial, Dixon, Floyd, Foshee, Little, Mitchell, Owens, Preuit, and Smith (B) -15

FURTHER CONSIDERATION OF SB 209

The Senate proceeded to further consideration of the Bill, SB 209. The question was on the Committee substitute.

Which was adopted.

Yeas 26 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett,

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deGraffenried, Denton, Dial, Dixon, Figures, Floyd, Foshee, Ghee, Hale, Langford, Lindsey, Lipscomb, Little, Owens, Parsons, Preuitt, Smith (B), Smith (J), and Windom -26

Nays: - 0

And said Bill, SB 209, as amended by the substitute, was read a third time at length and passed, and ordered sent forthwith to the House upon engrossment.

Yeas 27 Nays 0

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Smith (B), Smith (J), and Windom -27

Nays: - 0

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 36. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bill shall be the paramount and continuing order of business taking precedence over all other matters until disposed of:

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S. 122

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Workers' compensation, substantially revised, admin. law judges estab., ct. procedure alt., medical charges capped, numerous secs. of Title 25 am'd. and repealed

On motion of Senator Preuitt, the Resolution was adopted by the Senate.

MOTIONS IN WRITING

Senator Ghee requested and received permission in order to offer

the following Motions in Writing, to-wit:

I move that the Bill, SB 336, on page 62 of the 11th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Also:

I move that the Bill, SB 340, on page 63 of the 11th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which were adopted, and the President and Presiding Officer of the Senate ordered said Bills, SB's 336 and 340, referred to the Standing Committee on Rules for placement on the Consent Calendar.

RESOLUTIONS

Senator Windom requested and received permission to offer the following Senate Joint Resolution, to-wit:

SJR 37. RECOGNIZING FORMER HOSTAGE TERRY ANDERSON AND OFFICIALLY INVITING MR. ANDERSON TO MOBILE, ALABAMA, ON FRIDAY, JUNE 26, 1992, FOR THE PURPOSE OF HONORING HIM FOR WITHSTANDING THE AGONY, BRUTAL TREATMENT FROM HIS CAPTORS AND FOR SURVIVING HIS CAPTIVITY OF 2,455 DAYS AS A UNITED STATES HOSTAGE IN LEBANON.

WHEREAS, the Alabama Sports Festival began in 1983 and 1992 is the Tenth "Diamond Anniversary" Year; and

WHEREAS, the Alabama Sports Festival has positively touched many thousands of Alabama amateur athlete's lives, not only in athletic competition but through the promotion of patriotism and academic excellence, and leadership in combating the peer problems in our society today; and

WHEREAS, the Alabama Sports Festival is recognized by the United States Olympic Committee and the National Congress of State Games as the only official Olympic-style State Games program in the State of Alabama; and

WHEREAS, the Alabama Sports Festival, Mayor Mike Dow, the City of Mobile, Mobile Press Register Chairman of Board William J.

Hearin, and the Mobile Press Register which join with the Alabama Legislature and Governor Guy Hunt in formally recognizing former United States hostage Terry Anderson. Mr. Anderson was in captivity 2,455 days encountering brutal guards, chains, dark cells of captivity and who was fighting at all times to keep his brain alive and his spirits high survived, with honor, this long captivity; and

THEREFORE, BE IT RESOLVED THAT THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, that on behalf of the State of Alabama and all citizens thereof, we formally invite, with the Alabama Sports Festival, Mobile Mayor Mike Dow, the City of Mobile, Mobile Press Register Chairman of Board, William J. Hearin, and the Mobile Press Register, to the City of Mobile, Friday, June 26, 1992, Terry Anderson for the purpose of honoring him and presenting to him the Alabama Sports Festival Medal of Honor Award for the standard of conduct that he has established for all United States citizens, under the most difficult circumstances.

RESOLVED, FURTHER, That Friday, June 26, 1992, is proclaimed Terry Anderson Day in Alabama as a tribute to his courageous battle during the 2,455 days of his captivity.

On motion of Senator Windom, the Rules were suspended and the Resolution, SJR 37, was adopted by the Senate.

Senators Wilson and Windom requested and received permission to offer the following Senate Joint Resolution, to-wit:

SJR 38. INVITING GOVERNOR BILL CLINTON TO ADDRESS A JOINT SESSION OF THE LEGISLATURE.

WHEREAS, Governor Bill Clinton, the 42nd Governor of Arkansas, is serving in his fifth term of office; and

WHEREAS, the 45-year-old candidate for the Democratic Party nomination for President has won his first primary of the season in Georgia; and

WHEREAS, this distinguished native of Arkansas graduated from Georgetown University in 1968 with a degree in foreign relations, attended Oxford University as a Rhodes Scholar, and earned his law degree from Yale University; and

WHEREAS, Governor Clinton in 1986 chaired the Southern Growth Policies Board and was instrumental in writing the highly ac-

claimed report of that board, "Halfway Home and a Long Way To Go"; and

WHEREAS, in 1987 Clinton chaired the Education Commission of the States and the National Governor's Association; and

WHEREAS, Governor Clinton was selected in June 1991 as the nation's most effective governor by his fellow governors in a Newsweek survey; and

WHEREAS, the members of the Legislature would be honored to have Governor Clinton address this body; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we invite Governor Bill Clinton, at his convenience, to address this Legislature in Joint Session.

RESOLVED FURTHER, That a copy of this resolution be sent to Governor Clinton, or his campaign manager, that he may be informed of our invitation.

Which was read and referred to the Standing Committee on Rules.

MOTIONS IN WRITING

Senator Denton requested and received permission to offer the following Motion in Writing, to-wit:

I move that the Bill, SB 272, on page 44 of the 11th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 272, referred to the Standing Committee on Rules for placement on the Consent Calendar.

Senator Mitchell requested and received permission to offer the following Motion in Writing, to-wit:

I move that the Bill, SB 118, on page 5 of the 11th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the

Senate ordered said Bill, SB 118, referred to the Standing Committee on Rules for placement on the Consent Calendar.

RESOLUTION

Senator Wilson requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 39. INVITING GOVERNOR BILL CLINTON TO ADDRESS A JOINT SESSION OF THE LEGISLATURE.

WHEREAS, Governor Bill Clinton, the 42nd Governor of Arkansas, is serving in his fifth term of office; and

WHEREAS, the 45-year-old candidate for the Democratic Party nomination for President has won his first primary of the season in Georgia; and

WHEREAS, this distinguished native of Arkansas graduated from Georgetown University in 1968 with a degree in foreign relations, attended Oxford University as a Rhodes Scholar, and earned his law degree from Yale University; and

WHEREAS, Governor Clinton in 1986 chaired the Southern Growth Policies Board and was instrumental in writing the highly acclaimed report of that board, "Halfway Home and a Long Way To Go"; and

WHEREAS, in 1987 Clinton chaired the Education Commission of the States and the National Governor's Association; and

WHEREAS, Governor Clinton was selected in June 1991 as the nation's most effective governor by his fellow governors in a Newsweek survey; and

WHEREAS, the members of the Legislature would be honored to have Governor Clinton address this body; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we invite Governor Bill Clinton, at his convenience, to address this Legislature in Joint Session.

RESOLVED FURTHER, That a copy of this resolution be sent to Governor Clinton, or his campaign manager, that he may be informed of our invitation.

On motion of Senator Wilson, the Rules were suspended and the Resolution was adopted by the Senate.

SPECIAL ORDER BILLS ON THIRD READING RESUMED

The Senate proceeded to consideration of the special, paramount, and continuing order of business for today, which was the Bill:

S. 122. To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 2, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation specialist program, mandatory benefit review conferences, and adjudication of claims by administrative law judges within the Division of Workers' Compensation of the Department of Industrial Relations; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, to repeal Sections 25-5-6, 25-5-12, 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, 25-5-88, 25-5-89, 25-5-91, 25-5-92, 25-5-93, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975; and to provide for certain implementation dates for various sections of the act.

RECESS

At 5:40 P.M., on motion of Senator deGraffenried, the Senate took a recess subject to the call of the Chair.

At 9:25 P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following engrossed Senate Bill with the original Senate Bill, and finds same correctly engrossed, to-wit:

S. 209. To establish certain due process rights for persons under investigation by the Department of Human Resources for alleged child abuse and/or neglect; and to amend Section 26-14-8, Code of Alabama, 1975, as amended, relating to the statewide central registry for reports of child abuse and neglect so as to further provide for the release

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of such information and the removal of names from the central registry.

JIM PREUITT,
Chairperson.

ADJOURNMENT

At 9:30 P.M., on motion of Senator deGraffenried, in accordance with Motion heretofore adopted and pending further consideration of the Bill, SB 122, the Senate adjourned until Thursday, March 5, 1992, at 10 o'clock A.M.

TWELFTH LEGISLATIVE DAY

THURSDAY, MARCH 5, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by Senator Albert Lipscomb, Thirty-Second Senatorial District.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Keesha D. Hawkins, Bellingrath Junior High School, Montgomery, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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REPORT OF COMMITTEE ON RULES ON REVISION OF THE JOURNAL

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Eleventh Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator deGraffenried, leave of absence was granted Senators Dial and Mitchem for today.

POINT OF PERSONAL PRIVILEGE

Senator Hale requested that the Journal show that the Senate convened at 10:20 A.M. today.

RECESS

At 10:25 A.M., on motion of Senator Ellis, the Senate took a recess subject to the call of the Chair.

At 11:10 A.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

**UNFINISHED BUSINESS
BILLS ON THIRD READING**

The Senate proceeded to consideration of the Unfinished Business for today, which was the Bill:

S. 122. To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 2, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation specialist program, mandatory benefit review conferences, and adjudication of claims by administrative law judges within the Division of Workers' Compensation of the Department of Industrial Relations; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, to repeal Sections 25-5-6, 25-5-12, 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, 25-5-88, 25-5-89, 25-5-91, 25-5-92, 25-5-93, and Sections 25-5-140 to

25-5-180, inclusive, Code of Alabama 1975; and to provide for certain implementation dates for various sections of the act.

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Joint Resolutions, your signature thereto is requested.

HJR 83. COMMENDING KEITH RIDLEY, DENNIS FEAZELL, BOB BLOM, AND DENISE WHITE FOR OUTSTANDING HEROISM.

Also:

HJR 84. MOURNING THE DEATH OF ARTHUR RICHARD GREEN OF GADSDEN, ALABAMA.

Also:

HJR 85. COMMENDING KELLY GAIL ELLIOTT OF GADSDEN, ALABAMA.

Also:

HJR 90. COMMENDING NELL RANKIN, RECIPIENT OF THE FOURTH ANNUAL ALABAMA PRIZE.

Also:

HJR 91. COMMENDING WILLIAM J. GANDOLFO FOR OUTSTANDING SERVICE TO CHURCH AND COMMUNITY.

Also:

HJR 92. MOURNING THE DEATH OF BENNIE J. WEBSTER OF INDIANAPOLIS, INDIANA.

Also:

HJR 93. COMMENDING TORRY DEWAYNE MACK OF BIRMINGHAM, ALABAMA, FOR DISTINGUISHED SERVICE IN THE PERSIAN GULF.

Also:

HJR 94. RECOGNIZING GREATER SHILOH MISSIONARY BAPTIST CHURCH OF BIRMINGHAM, ALABAMA, ON ITS 100 YEARS OF CHRISTIAN SERVICE TO THE COMMUNITY.

Also:

HJR 95. COMMENDING MR. AND MRS. COLVIN R. ARNOLD ON THEIR MARRIAGE, JUNE, 22, 1991.

Also:

HJR 96. COMMENDING TEKO WISEMAN, FIRST LADY OF MOBILE FOR 1991.

Also:

HJR 99. COMMENDING DAVID WAID, WALKER COUNTY'S PARAMEDIC OF THE YEAR.

Also:

HJR 100. COMMENDING TERESA ABERNATHY OF RED BAY, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

Also:

HJR 107. CREATING A BOARD TO COORDINATE THE SUPPORT AND PARTICIPATION BY THE STATE OF ALABAMA IN THE 1996 SUMMER OLYMPICS TO BE HELD IN ATLANTA, GEORGIA.

GREG PAPPAS,
Clerk.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolutions, the titles of which are set out in the foregoing Message from the House.

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Bill, your signature thereto is requested.

H. 36. Relating to the City of Wilmer in Mobile County; to amend Section II of Act No. 470, H. 952, 1939 Regular Session (Local Acts 1939, p. 298) as amended, which created and established the countywide civil service system in Mobile County, so as to provide further for exemptions and to provide for municipal employees to vote for removal from said system.

GREG PAPPAS,
Clerk.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Bill, the title of which is set out in the foregoing Message from the House.

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the following Senate Joint Resolutions and returns same herewith to the Senate:

SJR 6. MOURNING THE DEATH OF CAROLYN FUNDERBURK NICHOLS OF BIRMINGHAM, ALABAMA.

Also:

SJR 7. MOURNING THE DEATH OF GEORGE C. HAWKINS OF GADSDEN, ALABAMA.

Also:

SJR 8. COMMENDING MAYOR GUTHRIE J. SMITH OF FAYETTE, ALABAMA.

Also:

SJR 15. MOURNING THE DEATH OF JOHN WAYNE CAMPBELL OF BESSEMER, ALABAMA.

Also:

SJR 16. COMMENDING FRANK SLAUGHTER OF TALLASSEE, ALABAMA, FOR OUTSTANDING COMMUNITY SERVICE.

Also:

SJR 21. COMMENDING DR. LARRY W. MCCOY FOR OUTSTANDING EDUCATIONAL AND COMMUNITY SERVICE.

Also:

SJR 22. COMMENDING WILLIAM FRED HORN OF BIRMINGHAM, ALABAMA.

Also:

SJR 23. MOURNING THE DEATH OF JAMES J. KOHN OF PINE LEVEL, ALABAMA.

Also:

SJR 34. MOURNING THE DEATH OF SAMUEL THOMAS BARNES, IV, OF TUSCALOOSA, ALABAMA.

Also:

SJR 35. COMMENDING WILLIAM C. CHANDLER OF MONTGOMERY, ALABAMA.

Also:

SJR 27. CONGRATULATING THE VESTAVIA HILLS CHAMBER OF COMMERCE ON THE OCCASION OF THEIR TENTH ANNIVERSARY.

GREG PAPPAS,
Clerk.

FURTHER CONSIDERATION OF SB 122

The Senate proceeded to further consideration of the Bill, SB 122.

RECESS

At 11:45 A.M., on motion of Senator Corbett, the Senate took a recess until 1 o'clock P.M.

At 1 o'clock P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

FURTHER CONSIDERATION OF SB 122

The Senate proceeded to further consideration of the Bill, SB 122.

BUDGET ISOLATION RESOLUTION

Senator deGraffenried, B.I.R., SB 122, offered.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Joint Resolutions with the original Senate Joint Resolutions, and finds same correctly enrolled, to-wit:

SJR 6. MOURNING THE DEATH OF CAROLYN FUNDERBURK NICHOLS OF BIRMINGHAM, ALABAMA.

Also:

SJR 7. MOURNING THE DEATH OF GEORGE C. HAWKINS OF GADSDEN, ALABAMA.

Also:

SJR 8. COMMENDING MAYOR GUTHRIE J. SMITH OF FAYETTE, ALABAMA.

Also:

SJR 15. MOURNING THE DEATH OF JOHN WAYNE CAMPBELL OF BESSEMER, ALABAMA.

Also:

SJR 16. COMMENDING FRANK SLAUGHTER OF TALLAS-

SEE, ALABAMA, FOR OUTSTANDING COMMUNITY SERVICE.

Also:

**SJR 21. COMMENDING DR. LARRY W. MCCOY FOR
OUTSTANDING EDUCATIONAL AND COMMUNITY SERVICE.**

Also:

**SJR 22. COMMENDING WILLIAM FRED HORN OF
BIRMINGHAM, ALABAMA.**

Also:

**SJR 23. MOURNING THE DEATH OF JAMES J. KOHN OF
PINE LEVEL, ALABAMA.**

Also:

**SJR 27. CONGRATULATING THE VESTAVIA HILLS
CHAMBER OF COMMERCE ON THE OCCASION OF THEIR
TENTH ANNIVERSARY.**

Also:

**SJR 34. MOURNING THE DEATH OF SAMUEL THOMAS
BARNES, IV, OF TUSCALOOSA, ALABAMA.**

Also:

**SJR 35. COMMENDING WILLIAM C. CHANDLER OF
MONTGOMERY, ALABAMA.**

JIM PREUITT,
Chairperson.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing Senate Joint Resolutions, the titles of which are set out in the foregoing report from the Committee on Rules.

FURTHER CONSIDERATION OF SB 122

The Senate proceeded to further consideration of the Bill, SB 122. The question was on the deGraffenried B.I.R.

And said deGraffenried B.I.R., SB 122, was adopted.

Yeas 19 Nays 9

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, deGraffenried, Denton, Dixon, Ellis, Foshee, Hale, Horn, Lipscomb, Little, Mitchell, Owens, Preuitt, Smith (J), Waggoner, and Windom -19

Nays:

Senators:

Bennett, Campbell, Corbett, Figures, Floyd, Ghee, Langford, Lindsey, and Wilson - 9

MOTION TO ADJOURN LOST

Senator Amari moved that the Senate adjourn, which motion was lost.

Yeas 7 Nays 20

Yeas:

Senators:

Amari, Bedsole, Dixon, Ellis, Hale, Lipscomb, and Waggoner - 7

Nays:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Floyd, Foshee, Ghee, Horn, Lindsey, Little, Mitchell, Owens, Preuitt, Smith (J), Wilson, and Windom -20

FURTHER CONSIDERATION OF SB 122

The Senate proceeded to further consideration of the Bill, SB 122.

On motion of Senator deGraffenried, the Rules were suspended and further consideration of the Bill, SB 122, was postponed temporarily.

Yeas 20 Nays 7

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried,

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Denton, Floyd, Foshee, Ghee, Horn, Lindsey, Little, Mitchell, Owens,
Parsons, Preuit, Smith (J), and Wilson -20

Nays:

Senators:

Amari, Dixon, Ellis, Hale, Lipscomb, Waggoner, and Windom - 7

MESSAGE FROM THE GOVERNOR

To The Senate of Alabama
Alabama State House
Montgomery, Alabama 36130

Lady and Gentlemen:

I transmit herewith to you a message from the Governor, returning Senate Bill No. 73, without the Governor's signature and approval, but with the following veto message.

Done this 4th day of March, 1992.

Respectfully submitted,

G. DENNIS NABORS,
Executive Secretary/
Chief of Staff.

MESSAGE FROM THE GOVERNOR

To The Senate of Alabama
Alabama State House
Montgomery, Alabama 36130

Lady and Gentlemen:

I am returning to you, the body in which it originated, Senate Bill No. 73 without my signature and approval.

Senate Bill No. 73 fails to preserve the cores of certain existing congressional districts and would, in my opinion, subject the state to the risks of possible violations of the Voting Rights Act.

For the foregoing reason, I hereby veto Senate Bill No. 73 and encourage you to join in my decision.

Done on this the 4th day of March, 1992.

Respectfully,

GUY HUNT,
Governor.

MESSAGE FROM THE GOVERNOR

To The Senate of Alabama
Alabama State House
Montgomery, Alabama 36130

Lady and Gentlemen:

I am returning to you, the body in which it originated, Senate Bill No. 73 without my signature and approval. I hereby veto Senate Bill No. 73 and encourage you to join in my decision.

Done on this the 4th day of March, 1992.

Respectfully,

GUY HUNT,
Governor.

GOVERNOR'S MESSAGE

The Senate received the foregoing Message from His Excellency, the Governor, returning the Bill, SB 73, without his approval.

Senator Parsons moved that the Senate sustain the veto of His Excellency, the Governor, to the Bill:

S. 73. To amend Section 17-20-1, Code of Alabama 1975, relating to the division of the state into congressional districts, so as to redistrict the congressional districts based upon the 1990 census.

Senator deGraffenried offered a substitute motion that the Senate pass the Bill, SB 73, the Governor's veto to the contrary notwithstanding.

PETITION

At 3:45 P.M., pursuant to the provisions of Senate Rule 21, the

following petition was read and ordered spread upon the Journal, to-wit:

PETITION

We, the undersigned, petition the Senate, pursuant to Senate Rule 21, that debate on the pending measure SB 73, shall cease at 4:15 o'clock P.M., on March 5, 1992.

RYAN DEGRAFFENRIED
LOWELL BARRON
JIM BENNETT
JIM SMITH
JIM PREUITT
STEVE WINDOM
CHIP BAILEY
BILL SMITH
JACK FLOYD

MAC PARSONS
WENDELL MITCHELL
PAT LINDSEY
DOUG GHEE
RAY CAMPBELL
BOBBY DENTON
E. C. FOSHEE
GEORGE BOLLING
FRED HORN

RECESS

At 3:50 P.M., on motion of Senator deGraffenried, the Senate took a recess until 4:10 P.M.

At 4:10 P.M., the recess period having expired, the Senate was called to order by President Pro Tempore deGraffenried. A quorum of the Senate was present.

FURTHER CONSIDERATION OF PETITION

The Senate proceeded to further consideration of the Petition relative to the Bill, SB 73.

Which was adopted.

Yeas 21 Nays 6

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Floyd, Foshee, Ghee, Horn, Lindsey, Little, Mitchell, Owens, Parsons, Preuitt, Smith (J), Wilson, and Windom -21

Nays:

Senators:

Amari, Bedsole, Dixon, Ellis, Hale, and Waggoner

- 6

FURTHER CONSIDERATION OF SB 73

The Senate proceeded to further consideration of the Bill, SB 73. The question was on the deGraffenried substitute motion that the Senate pass the Bill, SB 73, the Governor's veto to the contrary notwithstanding.

And said Bill, SB 73, was again read at length and passed by a vote of the majority of the whole number elected to the Senate, said vote being: Yeas 21; Nays 9, the Governor's veto to the contrary notwithstanding.

Yeas 21 Nays 9

Yeas:

Senators:

Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Figures, Floyd, Foshee, Ghee, Horn, Lindsey, Mitchell, Parsons, Preuitt, Smith (J), Wilson, and Windom -21

Nays:

Senators:

Amari, Dixon, Ellis, Hale, Langford, Lipscomb, Little, Owens, and Waggoner - 9

PERMISSION GRANTED

Senator Little requested and received permission to suspend the Rules in order to receive the Message from the House relative to HJR 117.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and adopted the following House Joint Resolution and sends same herewith to the Senate for its consideration:

By Rep. Venable:

HJR 117. INVITING AUBURN UNIVERSITY PRESIDENT DR. WILLIAM V. MUSE TO ADDRESS A JOINT SESSION OF THE ALABAMA LEGISLATURE.

WHEREAS, after a long and distinguished career in higher education, most recently as President of Akron University, Dr. William

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V. Muse became the Fifteenth President of Auburn University on March 1, 1992; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby welcome Dr. Muse to Alabama and to Auburn University and most respectfully request him to address the Alabama Legislature on March 10, 1992, at 2:00 p.m., and that we convene in joint session at that hour to hear his remarks.

BE IT FURTHER RESOLVED, That Dr. Muse be advised, by copy of this resolution, of our invitation to address the Legislature and our hopeful anticipation of his acceptance.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

On motion of Senator Little, the Rules were suspended and the Resolution, HJR 117, set out in the foregoing Message from the House, was concurred in and adopted by the Senate.

BUDGET ISOLATION RESOLUTION

Senator Bedsole requested and received permission to suspend the Rules in order to bring up the Bill, HB 74.

Senator Bedsole, B.I.R., HB 74, adopted.

Yeas 21 Nays 4

Yeas:

Senators:

Barron, Bedsole, Bennett, Bolling, Campbell, Denton, Dixon, Ellis, Figures, Floyd, Foshee, Hale, Horn, Langford, Lindsey, Little, Preuitt, Sanders, Waggoner, Wilson, and Windom

-21

Nays:

Senators:

Amari, Bailey, Corbett, and Parsons

- 4

BILLS ON THIRD READING RESUMED

THE BILL:

H. 74. Relating to Mobile County; to amend Act No. 86-545,

S. 655, 1986 Regular Session, which creates a County Racing Commission, to delete the residency requirements for certain applicants, owners, and employees; to alter the permissible number of racing days; to authorize a licensee to receive and transmit certain racing broadcasts and to provide that wagering on broadcasts shall be subject to the same commissions as live racing; to further provide for the tax on the contributions to all pari-mutuel pools, the licensees' amount of commission, and the distribution of amounts due on outstanding unredeemed mutuel tickets; to require certain funds be used for capital improvements; to provide further for the distribution of monies received under this act; and to regulate the expenditures of the commission.

was taken up.

The Standing Committee on Local Legislation No. 3 reported the following amendment to the Bill, HB 74, to-wit:

AMENDMENT TO HB 74

Amend House Bill No. 74, on Page 10, Line 18, as follows:

After the word "exceed" by striking line 19 in its entirety and inserting in lieu thereof the following:

"\$150.00 per month to be paid out of the Fund."

Which was adopted.

Yeas 24 Nays 0

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Horn, Langford, Lindsey, Lipscomb, Little, Preuitt, Sanders, Wilson, and Windom -24

Nays:

- 0

Senator Windom offered the following amendment to the Bill, HB 74, as amended, to-wit:

AMENDMENT TO HB 74, AS AMENDED

Amend House Bill No. 74, as amended, page 3, line 20, as follows:

To delete paragraph "b." in its entirety and replace it with the following:

"b. Transmit broadcasts of dog races to tracks located outside of Mobile County and to other authorized facilities located outside of the State of Alabama. The gross proceeds retained by the licensee on all wagering by patrons on dog races broadcast under this section shall be subject to the same percentage commissions as are paid by the licensee to the Racing Commission on live races at the pari-mutuel facility."

Also:

Amend House Bill No. 74, as amended, Page 1, Line 33, as follows:

To delete the period and to add at the words

", except Sundays."

Which was adopted.

Yeas 24 Nays 0

Yeas:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, Denton, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Horn, Langford, Lindsey, Lipscomb, Little, Preuitt, Sanders, Wilson, and Windom -24

Nays:

- 0

And said Bill, HB 74, as thus amended, was read a third time a length and passed.

Yeas 13 Nays 7

Yeas:

Senators:

Barron, Bedsole, Bennett, Campbell, Ellis, Figures, Floyd, Foshee, Horn, Langford, Lindsey, Preuitt, and Sanders -13

Nays:

Senators:

Amari, Bailey, Bolling, Corbett, Lipscomb, Little, and Windom - 7

REPORTS OF COMMITTEES

Senator Horn, Chairperson of the Standing Committee on Finance

and Taxation, reported that said committee, in session, had acted on the following bill and ordered same returned to the Senate with a favorable report, and it was read a second time and placed on the calendar, to-wit:

By Senator Waggoner:

S. 248. To exempt all property owned by Community Health Systems, Inc. and the Walker Regional Medical Center from any state, county, and local ad valorem taxes.

Senator Preuit, Chairperson of the Standing Committee on Rules reported that the following Bills have been placed on the Consent Calendar for today, to-wit:

By Senator Bailey:

S. 260. To amend Section 26-16-30 of the Code of Alabama 1975, relating to the Children's Trust Fund, to provide for the investment of trust fund money.

By Senator Bedsole:

S. 284. To amend Sections 44-1-51 and 44-1-53, Code of Alabama 1975, relating to the Youth Services Board to provide for the expansion of membership to the board, for compensation to the board, and the requirements for a quorum at board meetings.

By Senators Dial, Barron, Waggoner, Owens, Mitchem, Lipscomb, Little, Bedsole, Ellis, Preuit, Denton, and Bolling:

S. 31. Providing certain educational assistance benefits for certain active members of the Alabama national guard.

By Senators Mitchell and Bennett:

S. 285. To provide for a civil cause of action against certain employers who take action detrimental to certain defined employees because the employee reports a violation of law or participates in a formal inquiry or court action.

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 40. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bill shall be the paramount and continuing order of business taking precedence over all other matters for the twelfth legislative day of the 1992 Regular Session only:

Page

H. 253

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Primary elections, date for filing declarations of candidacy and certifying candidates, Sec. 17-16-11 am'd.

On motion of Senator Preuitt the Resolution was adopted by the Senate.

BUDGET ISOLATION RESOLUTION

Senator deGraffenried, B.I.R. HB 253, adopted.

Yeas 21 Nays 4

Yeas:

Senators:

Bailey, Barron, Bennett, Bolling, Campbell, deGraffenried, Denton, Ellis, Figures, Floyd, Ghee, Horn, Langford, Lindsey, Little, Parsons, Preuitt, Sanders, Smith (J), Wilson, and Windom -21

Nays:

Senators:

Amari, Bedsole, Dixon, and Lipscomb

- 4

**SPECIAL ORDER
BILLS ON THIRD READING**

The Senate proceeded to consideration of the special, paramount, and continuing order of business for today, which was the Bill:

H. 253. To amend Section 17-16-11 of the Code of Alabama 1975, relating to primary elections so as to shorten the time period for the filing of declarations of candidacy and for the certification of candidates.

MOTION TO ADJOURN

Senator deGraffenried moved that when the Senate adjourns today,

it adjourn to meet again on Tuesday, March 10, 1992, at 11 o'clock A.M.

Senator Corbett offered a substitute motion that when the Senate adjourns today, it adjourn to meet again on Tuesday, March 10, 1992, at 1 o'clock P.M., which motion was lost.

Senator Corbett then offered a substitute motion that when the Senate adjourns today, it adjourn to meet again on Tuesday, March 10, 1992, at 1:15 P.M., which motion was adopted.

Yeas 16 Nays 10

Yeas:

Senators:

Amari, Bennett, Campbell, Corbett, Figures, Floyd, Foshee, Hilliard, Horn, Langford, Lindsey, Little, Mitchell, Parsons, Wilson, and Windom
-16

Nays:

Senators:

Bailey, Barron, Bedsole, Bolling, deGraffenried, Denton, Dixon, Lipscomb, Preuitt, and Smith (J)
-10

MOTIONS IN WRITING

Senator Lindsey requested and received permission to suspend the Rules in order to offer the following Motions in Writing, to-wit:

I move that the Bill, SB 88, on page 7 of the 12th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Also:

I move that the Bill, SB 119, on page 33 of the 12th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which were adopted, and the President and Presiding Officer of the Senate ordered said Bills, SB's 88 and 119, referred to the Standing Committee on Rules for placement on the Consent Calendar.

Senator Denton requested and received permission to suspend the Rules in order to offer the following Motion in Writing, to-wit:

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I move that the Bill, SB 303, on page 54 of the 12th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 303, referred to the Standing Committee on Rules for placement on the Consent Calendar.

Senator Bennett requested and received permission to suspend the Rules in order to offer the following Motion in Writing, to-wit:

I move that the Bill, SB 294, on page 52 of the 12th Day Calendar, be referred to the Standing Committee on Rules for placement on the Consent Calendar.

Which was adopted, and the President and Presiding Officer of the Senate ordered said Bill, SB 294, referred to the Standing Committee on Rules for placement on the Consent Calendar.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senator Hilliard:

S. 413. To propose an amendment to the Constitution of Alabama of 1901 to provide home rule for the City of Birmingham in Jefferson County.

Committee on Constitution
and Elections

The above Bill was read a first time at length as required by the Constitution.

By Senator Floyd (With Notice and Proof):

S. 414. Relating to Etowah County; providing for the funding, operation, upkeep, and maintenance of the county-wide jail, juvenile facilities, work release center facilities, and support facilities.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB

414, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Hilliard:

S. 415. To amend Section 10-5-2.1 of the Code of Alabama 1975, relating to the transfer of abandoned railroad rights-of-way, so as to provide that said rights-of-way shall cede to the state, to provide for the administration of said property and to provide compensation to the owner of said property.

Committee on Commerce,
Transportation, and Utilities

By Senator Bedsole:

S. 416. To amend Section 2-27-11 of the Code of Alabama 1975, relating to permitting persons who purchase and use restricted-use pesticides; and to provide further for the setting of the fee by the board.

Committee on Agriculture,
Conservation, and Forestry

By Senator Bedsole:

S. 417. To create the Energy Reimbursement Fund to be administered by the Alabama Development Office, to provide for the reimbursement to certain qualified manufacturing facilities of a percentage of the cost of energy used by said facilities for a period of up to five years and to create a Legislative Oversight Committee.

Committee on Finance
and Taxation

By Senators Horn and Denton:

S. 418. To make an appropriation from the Alabama Special Educational Trust Fund for the support and maintenance of Educational Resources, Incorporated (commonly known as the Freedom Forum) for the fiscal year ending September 30, 1993, and to require an operations plan and audited financial statement prior to release of any funds.

Committee on Finance
and Taxation

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By Senator Horn:

S. 419. To amend Section 41-16-50, Code of Alabama 1975, concerning the award of contracts for the purchase of personal property by municipalities to allow acceptance of the bid of a resident responsible bidder whose bid is no more than five percent greater than the bid of the lowest responsible bidder.

Committee on Governmental
Affairs/Local Government

By Senator Hilliard:

S. 420. To propose an amendment to the Constitution of Alabama of 1901 to provide home rule for Jefferson County.

Committee on Local
Legislation No. 2

The above Bill was read a first time at length as required by the Constitution.

By Senator Hilliard:

S. 421. Relating to persons or organizations who coordinate or provide bus or motor coach tours or trips in Alabama for educational purposes; so as to exempt such persons or organizations from rules or regulations of the state Public Service Commission adopted pursuant to Section 37-3-34 or any other parts of Title 37, Chapter 3, Code of Alabama 1975, as amended.

Committee on Commerce,
Transportation, and Utilities

By Senator Waggoner:

S. 422. To amend Sections 22-8A-2, 22-8A-3, 22-8A-4, 22-8A-5, 22-8A-6, 22-8A-7, 22-8A-8, and 22-8A-9, Code of Alabama 1975, to: authorize competent adults to make written directions concerning the withholding or withdrawing of life-sustaining treatment and artificially provided nutrition and hydration in instances that are not necessarily limited to terminal conditions and permanent unconsciousness, permit the designation of proxy decision-makers, and provide for the appointment of surrogate decision-makers in instances where the patient

has not made such a designation.

Committee on Judiciary/Civil

By Senator Sanders:

S. 423. To define the misdemeanor crime of stalking; to prescribe penalties upon conviction; and to prescribe an effective date.

Committee on Judiciary/Civil

By Senator Smith (J):

S. 424. To prohibit any person from possessing, without authority, any state, county, or municipal traffic sign; and to provide penalties.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senators Lipscomb, Waggoner, Owens, Bolling, Amari, Bailey, Denton, Ellis, Preuitt, Foshee, Windom, and Little:

S. 425. To prohibit any college or university from spending public funds or using public facilities, directly or indirectly, to sanction, recognize, or support any group that promotes a lifestyle or actions prohibited by the sodomy and sexual misconduct laws; to prohibit any group from permitting or encouraging its members or others to engage in or provide materials on how to engage in the lifestyle or actions.

Committee on Finance
and Taxation

RECESS

At 6 o'clock P.M., on motion of Senator deGraffenried, the Senate took a recess subject to the call of the Chair.

At 10:30 P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

MESSAGE FROM THE HOUSE

Mr. President:

The House has reconsidered the Bill:

S. 73. To amend Section 17-20-1, Code of Alabama 1975, re-

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lating to the division of the state into congressional districts, so as to redistrict the congressional districts based upon the 1990 census.

And said Bill, SB 73 was again read at length and passed, by the Governor's objection to the contrary notwithstanding, by a vote of: Yeas 64, Nays 29, which was a majority of the whole number elected to the House.

And said Bill, SB 73 together with the Governor's Message, is herewith returned to the Senate.

GREG PAPPAS,
Clerk.

DELIVERY OF SB 73

Senate Bill 73, having passed both Houses of the Legislature and delivered to the Governor on February 27, 1992, and then having been passed again by both Houses, the Governor's veto notwithstanding, was delivered to the Secretary of State's office on March 5, 1992.

McDOWELL LEE,
Secretary.

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the Senate amendment to the following House Bill:

H. 74. Relating to Mobile County; to amend Act No. 86-545, S. 655, 1986 Regular Session, which creates a County Racing Commission, to delete the residency requirements for certain applicants, owners, and employees; to alter the permissible number of racing days; to authorize a licensee to receive and transmit certain racing broadcasts and to provide that wagering on broadcasts shall be subject to the same commissions as live racing; to further provide for the tax on the contributions to all pari-mutuel pools, the licensees' amount of commission, and the distribution of amounts due on outstanding unredeemed mutuel tickets; to require certain funds be used for capital improvements; to provide further for the distribution of monies received under this act; and to regulate the expenditures of the commission.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE HOUSE

Mr. President:

The House has concurred in and adopted the following Senate Joint Resolutions and returns same herewith to the Senate:

SJR 9. URGING THE LEGISLATURE AND ALL STATE AGENCIES, SCHOOL SYSTEMS AND HIGHER EDUCATION INSTITUTIONS TO PURCHASE RECYCLED PRODUCTS.

Also:

SJR 33. SETTING THE DATE AND TIME FOR A JOINT SESSION OF THE ALABAMA LEGISLATURE TO HEAR AN ADDRESS BY HIS ROYAL HIGHNESS PRINCE KHALED BIN SULTAN BIN ABDULAZIZ OF SAUDI ARABIA.

Also:

SJR 37. RECOGNIZING FORMER HOSTAGE TERRY ANDERSON AND OFFICIALLY INVITING MR. ANDERSON TO MOBILE, ALABAMA, ON FRIDAY, JUNE 26, 1992, FOR THE PURPOSE OF HONORING HIM FOR WITHSTANDING THE AGONY, BRUTAL TREATMENT FROM HIS CAPTORS AND FOR SURVIVING HIS CAPTIVITY OF 2,455 DAYS AS A UNITED STATES HOSTAGE IN LEBANON.

Also:

SJR 39. INVITING GOVERNOR BILL CLINTON TO ADDRESS A JOINT SESSION OF THE LEGISLATURE.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Cagle:

H. 350. Proposing an amendment to the Constitution of Alabama of 1901; relating to legalizing the operation of bingo games for

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prizes or money by certain nonprofit organizations for charitable or educational purposes, outside of the corporate limits of the City of Jasper in Walker County when all the requirements of Amendment 425 to the Constitution of 1901 are fulfilled.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 350 - to the Committee on Local Legislation No. 1

(The above Bill was read a first time at length as required by the Constitution.)

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Reps. Hogan and Cagle (With Notice and Proof):

H. 327. Relating to Walker County; authorizing the County Commission to levy an additional ad valorem tax and providing for a referendum.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 327, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Venable (With Notice and Proof):

H. 334. To authorize the county commission of Coosa County to increase the rate of the special countywide ad valorem tax for public

school purposes which is authorized in Amendment No. 3 to the constitution, to a maximum rate which is equal to \$2.10 on each one hundred dollars of assessed value.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 334, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committee, as follows:

HB's 327 and 334 - to the Committee on Local Legislation No. 1

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Rep. Cagle:

H. 351. Proposing an amendment to the Constitution of 1901; relating to legalizing the operation of bingo games for prizes or money by certain nonprofit organizations for charitable or educational purposes when all the requirements of Amendment 425 to the Constitution of 1901, are fulfilled.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 351 - to the Committee on Local Legislation No. 1

(The above Bill was read a first time at length as required by the Constitution.)

MESSAGE FROM THE HOUSE

Mr. President:

The House has passed the following Senate Bill and returns same herewith to the Senate:

S. 64. To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Luverne in Crenshaw County.

GREG PAPPAS,
Clerk.

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bill and ordered same sent forthwith to the Senate without engrossment:

By Reps. Curry, Petelos, McDowell, Spratt, Gaines, Sanderson, Morton, Rogers (F), Payne, and Barnes (With Notice and Proof):

H. 349. To approve and authorize the County Commission of Jefferson County, Alabama to increase the rate at which ad valorem taxes are levied in the Jefferson County School District for public school purposes in the District, pursuant to the election in said District held on February 11, 1969, under the Jefferson County Consolidation School Tax Amendment of the Alabama Constitution (Amendment No. 82), adjusted in accordance with Amendment Nos. 325 and 373 to the Alabama Constitution, or pursuant to such elections as may subsequently be held under the Jefferson County Consolidation School Tax Amendment (Amendment No. 82), adjusted in accordance with Amendment Nos. 325 and 373 to the Alabama Constitution, to approve, renew, or extend said tax levy, from \$.88 to \$2.28 on each \$100 of taxable property in the Jefferson County School District (consisting of all areas of Jefferson County outside of the municipalities of Birmingham, Bessemer, Fairfield, Mountain Brook, Homewood, Vestavia Hills, Tarrant City, Midfield and Hoover), the proceeds of said tax to be used for public school purposes in said School District, subject, however, to

the approval of the qualified electors residing in the Jefferson County School District who vote on the proposal at a special election.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 349, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bill, the title of which is set out in the foregoing Message from the House, was read one time and referred to appropriate Standing Committee, as follows:

HB 349 - to the Committee on Local Legislation No. 2

MESSAGE FROM THE HOUSE

Mr. President:

The House has originated and passed the following House Bills and ordered same sent forthwith to the Senate without engrossment:

By Reps. Sanderford, Hall, Grayson, Haney, Butler, and Freeman
(With Notice and Proof):

H. 337. Relating to Madison County; to amend Section 1 of Act No. 80-277, H. 117, 1980 Regular Session, as amended, which provides for the distribution of TVA payments, so as to provide further for such distribution.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 337, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

Also:

By Rep. Harvey (With Notice and Proof):

H. 376. Relating to Blount County; to amend Section 2 of Act

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No. 316, H. 555, Regular Session 1973 (Acts 1973, p. 445, et seq.), which divides the county into districts for the election of the Blount County Board of Education, to redivide the county districts using current beat descriptions.

I HEREBY CERTIFY THAT THE NOTICE AND PROOF IS ATTACHED TO THE BILL, HB 376, AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

GREG PAPPAS,
Clerk.

GREG PAPPAS,
Clerk.

HOUSE MESSAGE

The House Bills, the titles of which are set out in the foregoing Message from the House, were severally read one time and referred to appropriate Standing Committee, as follows:

HB's 337 and 376 - to the Committee on Local Legislation No. 1

REPORT OF SECRETARY

Mr. President:

In accordance with the provisions of Joint Rule 5 of the Senate and House of Representatives, I respectfully report the following Bill and Senate Joint Resolutions delivered to the Governor and the Secretary of State, with the date and hour of delivery, to-wit:

SJR 6	SJR 16	SJR 27
SJR 7	SJR 21	SJR 34
SJR 8	SJR 22	SJR 35
SJR 15	SJR 23	

Delivered to the Governor, March 5, 1992, at 2:18 P.M.

SB 73

Delivered to the Secretary of State, March 5, 1992, at 11:59 P.M.

McDOWELL LEE,
Secretary of Senate.

SECRETARY'S REPORT

The foregoing report of the Secretary was read and ordered spread upon the Journal.

ADJOURNMENT

At 11:59 P.M., on motion of Senator deGraffenried, in accordance with Motion heretofore adopted and pending further consideration of the Bill, HB 253, the Senate adjourned until Tuesday, March 10, 1992, at 1:15 P.M.

THIRTEENTH LEGISLATIVE DAY

TUESDAY, MARCH 10, 1992

The Senate met pursuant to adjournment, Lieutenant Governor Folsom presiding.

PRAYER

The Session was opened with prayer by the Reverend Larry Armstrong, Assistant Minister, Eastern Hills Baptist Church, Montgomery, Alabama.

PLEDGE OF ALLEGIANCE

The Senators were led in the Pledge of Allegiance to the Flag of the United States of America by Suzanne Dart, St. James School, Montgomery, Alabama.

ROLL CALL

Present:

Senators:

Amari, Bailey, Barron, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Dixon, Ellis, Figures, Floyd, Foshee, Ghee, Hale, Hilliard, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, Sanders, Smith (B), Smith (J), Waggoner, Wilson, and Windom

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REPORT OF COMMITTEE ON RULES ON REVISION OF THE JOURNAL

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in Session, has carefully examined the Journal of the Senate for the Twelfth Legislative Day and finds same correct and containing all original entries and references thereto required by the Constitution.

JIM PREUITT,
Chairperson.

COMMITTEE REPORT

On motion of Senator Preuitt, the foregoing report was concurred in and approved by the Senate.

JOURNAL

And on motion of Senator deGraffenried, the reading of the Journal of yesterday was dispensed with and same adopted by the Senate.

LEAVE OF ABSENCE

On motion of Senator deGraffenried, leave of absence was granted Senator Mitchem for today.

POINT OF PERSONAL PRIVILEGE

Senator Hale requested that the Journal show that the Senate convened at 1:25 P.M. today.

RESOLUTIONS

Senator deGraffenried requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 41. MOURNING THE DEATH OF TROOPER ROBERT WILLIAM JONES OF TROY, PIKE COUNTY, ALABAMA.

WHEREAS, the Legislature of Alabama grievously records the death of Alabama State Trooper Robert William Jones of Troy, Alabama, on November 3, 1991, at the age of just 41 years; and

WHEREAS, Trooper Jones, a native of Greeley, Colorado, was a graduate of Andalusia High School, and also of Troy State University, where he was awarded a Bachelor of Science degree, with honors, in Criminal Justice; and

WHEREAS, Trooper Jones, a military veteran, served his country with honor and distinction in the United States Marine Corps from December 1968 until December 1970; and

WHEREAS, employed by the State of Alabama, Department of Public Safety, from July 5, 1978, until his lamentable death, in the line of duty, in Pike County, November 3, 1991, Trooper Jones was a loyal

and dedicated career officer who greatly distinguished himself, the Department of Public Safety and the State of Alabama as an exemplary public servant; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of State Trooper Robert William Jones of Troy, Alabama, and extend our most heartfelt sympathy to his children and family who are sorely bereft in their great and grievous loss.

BE IT FURTHER RESOLVED, That Trooper Jones' family be provided with a copy of this resolution, executed in memory of a distinguished and beloved Alabamian.

On motion of Senator deGraffenried, the Rules were suspended and the Resolution was adopted by the Senate.

Senator Hale requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 42. COMMENDING GREG BUTRUS OF BIRMINGHAM, ALABAMA, FOR EXTRAORDINARY ACHIEVEMENT.

WHEREAS, in a desire to recognize young Alabamians of outstanding achievement, the Alabama Legislature notes the numerous and notable accomplishments of Greg Butrus of Birmingham, currently a student at the University of Notre Dame; and

WHEREAS, Greg Butrus, the son of Mr. and Mrs. Paul Butrus of Mountain Brook, is a graduate of Mountain Brook High School, where he served as Key Club president and, in 1988, was honored as the Most Outstanding Key Club President in the State of Alabama; and

WHEREAS, in addition to a number of other academic and extracurricular activities, he was a member of the Mountain Brook High School debate team and, in competition, was an award winner in a Lincoln-Douglas style debate for three years, and served also as a delegate to the 1988 National Forensic League Tournament; and

WHEREAS, we are most particularly pleased and proud, however, of Greg's most recent accomplishment as the newly-elected president, on February 10, 1992, of the University of Notre Dame Student Government Association (SGA), a signal honor of his peers, reflecting their regard of his outstanding ability, leadership qualities and remarkable potential for continuing achievement; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend and congratulate Greg Butrus on his many past accomplishments and his recent election as SGA president at the University of Notre Dame, and do further direct that he receive a copy of this resolution, executed in sincere admiration and with warm best wishes for every future success and happiness in life.

On motion of Senator Hale, the Rules were suspended and the Resolution was adopted by the Senate.

Senator Bedsole requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 43. MOURNING THE DEATH OF ROBERT WILKINS OF MOBILE, ALABAMA.

WHEREAS, it is with profound sorrow and a deep sense of loss that the Legislature of Alabama records the death of Robert Bernard Wilkins on February 19, 1992, at the age of 69 years; and

WHEREAS, Robert Wilkins, a prominent Mobile attorney and civic leader, whose contributions to his community and state were immeasurable, served as a member of the Alabama House of Representatives from 1950 to 1954, during which tenure he worked tirelessly on behalf of the Alabama State Docks and public education; and

WHEREAS, he was a lifelong resident of Mobile; a graduate of Murphy High School, Spring Hill College, and the University of Alabama School of Law; and was a United States Navy veteran of World War II who served with valor aboard the USS New Jersey in the Pacific Theatre of Operations; and

WHEREAS, Mr. Wilkins, named attorney for the Alabama State Docks in 1959, also was a former member of the Mobile Chamber of Commerce, a member of the Council of Regents, and a past president of the Alumni Board of Visitors of Spring Hill College, which honored him in 1985 with the O'Leary Award for community service; and

WHEREAS, he further was a member of St. Ignatius Catholic Church and was active as a layman in the Catholic Archdiocese of Mobile, served as a former board member of the Mobile County Chapter of the American Red Cross, and was a past committee chairman for Downtown Mobile Unlimited; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of Robert Bernard Wilkins of Mobile, Alabama, and extend our most heartfelt sympathy to his wife, Monica Damrich Wilkins; his sons, Robert B., David Damrich, Thomas Bartley, and Carleton Richard Wilkins; and to other family members, for whom a copy of this resolution of sincere condolence shall be provided.

On motion of Senator Bedsole, the Rules were suspended and the Resolution was adopted by the Senate.

Senators Bedsole and Windom requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 44. COMMENDING EMILY STAPLES HEARIN, 1991 MOBILIAN OF THE YEAR.

WHEREAS, it is with highest commendation that the Alabama Legislature notes the selection of Emily Staples Hearin as 1991 Mobilian of the Year, a program sponsored by the Mobile Civitan Club; and

WHEREAS, Emily Hearin, prominent local author, columnist and civic leader, has been a longtime, active member and past president of the Junior League of Mobile and the Historical Mobile Preservation Society, and is a charter member of the Alabama Historical Commission and has served on its board for some 18 years; and

WHEREAS, she also is an active member of Trinity Episcopal Church and has served as a tour guide for the "Trinity Tour," a fund-raising project in support of the parish, the City of Mobile and other civic endeavors; and

WHEREAS, Mrs. Hearin, founder of the organization which is now the United Cerebral Palsy Association of Mobile, has served as past president of the Mental Health Association and on the advisory boards of the Mobile Infirmary School of Nursing, Providence Hospital School of Nursing and Mastin School of Nursing; and

WHEREAS, in addition, she is past president of Sociedad de Malaga, the Mobile Symphony Guild and Collectors Cavalcade, and is former chairman of the Artists and Models Ball, the proceeds of which helped establish the Fine Arts Museum of the South; and

WHEREAS, in an extension of leadership, Mrs. Hearin was foun-

der, first president, and past president of the board of the Friends of the Museum of the City of Mobile; an advisory board member for Contact Mobile; and a board member for Helpline, Streetscapes, the Botanical Gardens and Magnolia Cemetery; and

WHEREAS, over the years, she has been the recipient of numerous distinctions including the 1991 Distinguished Service Award by the Alabama Historical Commission, First Lady of Mobile in 1976, recognition by the American Diabetes Association (1981), and Outstanding Personality of the South; and

WHEREAS, Emily Staples Hearin is indeed a lady of exceptional stature, whose extensive contributions to the civic and cultural life of the Mobile community are immeasurable; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding contributions and service to community and state, and as 1991 Mobilian of the Year, we hereby most highly commend Emily Staples Hearin of Mobile, Alabama, for whom a copy of this resolution of sincere praise shall be provided.

On motion of Senator Bedsole, the Rules were suspended and the Resolution was adopted by the Senate.

Senator Smith (B) requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 45. ADOPTING AMERICAN SIGN LANGUAGE AS THE OFFICIAL SIGN LANGUAGE OF THE DEAF IN ALABAMA.

WHEREAS, it is the intent of the Legislature of Alabama to:

- (1) Formally express respect for American sign language;
- (2) Promote public awareness of an appreciation for American sign language and its use and benefits;
- (3) Preserve the culture and heritage of American sign language; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That American sign language is recognized and adopted as the official and native sign language of the deaf in Alabama.

BE IT FURTHER RESOLVED, That Alabama schools are encouraged to offer courses in American sign language.

On motion of Senator Smith (B), the Rules were suspended and the Resolution was adopted by the Senate.

Senator Ellis requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 46. COMMENDING DR. JOHN W. STEWART FOR DISTINGUISHED SERVICE AS PRESIDENT OF THE UNIVERSITY OF MONTEVALLO AND NAMING THE UNIVERSITY'S STUDENT RETREAT IN HIS HONOR.

WHEREAS, Dr. John W. Stewart, President of the University of Montevallo, has announced his plans to retire in the Summer of 1992; and

WHEREAS, Dr. Stewart has provided steady, sure, and able leadership to the University, enabling it to secure its foundations and serve the state through fulfillment of its unique mission as Alabama's institution of liberal arts; and

WHEREAS, Dr. Stewart began his career at the University thirty-one years ago as Associate Professor of Music, and later served as Professor of Music, Chairman of the Music Department, Dean of the College of Fine Arts, and Interim President, prior to being named President by the Board of Trustees; and

WHEREAS, Dr. Stewart and his wife Lauris have graciously extended their hospitality, friendship, and affection to students, faculty, alumni, staff, and friends in so many ways; and

WHEREAS, the present Cabinet, and its three predecessor Cabinets, of the Student Government Association recommended to the Board of Trustees that, in recognition of Dr. Stewart's service, the Student Retreat, funded by student fees, be named in his honor, thereby signifying one of the highest honors a President can receive, namely to be cited for outstanding service by the students whom he has served; and

WHEREAS, the Board of Trustees of the University of Montevallo unanimously concurred in the request of the students; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend to

Dr. Stewart our deep appreciation for his outstanding leadership of and service to the University of Montevallo, as well as our best wishes to him and to First Lady Lauris Stewart for much future happiness.

BE IT FURTHER RESOLVED, that in concurrence with the recommendation of the Student Government Association, and in support of the action of the Board of Trustees, we hereby name and designate the Student Retreat at the University of Montevallo as the "John W. Stewart Student Retreat."

RESOLVED FURTHER, that a copy of the resolution of official designation be forwarded to the Board of Trustees of the University of Montevallo.

On motion of Senator Ellis, the Rules were suspended and the Resolution was adopted by the Senate.

Senator Horn requested and received permission to suspend the Rules in order to offer the following Senate Joint Resolution, to-wit:

SJR 47. COMMENDING MANDELYN KAYE HANCOCK OF BIRMINGHAM, ALABAMA.

WHEREAS, the Legislature of Alabama is pleased to note the selection of Mandelyn Kaye Hancock of Birmingham, Alabama, as the national "Winning Kid," selected by the Epilepsy Foundation of America (EFA) to symbolize our nation's children with epilepsy, and the difficulties they must overcome to succeed; and

WHEREAS, Mandy Hancock, a student at Clay Elementary School, has served as the EFA Winning Kid since August 1991 and, since that time, has met many prominent Alabama personalities and dignitaries; and

WHEREAS, other opportunities associated with her symbolic role include television and radio appearances, a visit with President and Mrs. George Bush, and numerous other appearances as 1991-1992 EFNCA representative; and

WHEREAS, during the nine years Mandy has had epilepsy, she has experienced multiple daily seizures, been on as many as four medications, and has endured many other treatments, including brain surgery, in an attempt to control her seizures; and

WHEREAS, Mandy, following surgery in 1988, has suffered

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fewer seizures; they still occur almost weekly, however, but are considered "mere inconveniences" by Mandy, her parents Scott and Brenda, and her younger sister Laura; and

WHEREAS, we are indeed most proud of Mandy Hancock who, along with her family, are great examples of living well with epilepsy; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, that we hereby most highly commend Mandelyn Kaye Hancock of Birmingham, Alabama, as Epilepsy Foundation of America "Winning Kid," and do further direct that she and her family receive copies of this resolution, that they may know of our pride in Mandy as the recipient of this distinguished and well deserved honor.

On motion of Senator Horn, the Rules were suspended and the Resolution was adopted by the Senate.

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 48. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bill shall be the paramount and continuing order of business taking precedence over all other matters for the thirteenth legislative day of the 1992 Regular Session only:

H. 253

Primary elections, date for filing declarations of candidacy and certifying candidates, Sec. 17-16-11 am'd.

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On motion of Senator Preuitt, the Resolution was adopted by the Senate.

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Joint Resolution, your signature thereto is requested.

HJR 117. INVITING AUBURN UNIVERSITY PRESIDENT DR. WILLIAM V. MUSE TO ADDRESS A JOINT SESSION OF THE

ALABAMA LEGISLATURE.

GREG PAPPAS,
Clerk.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing House Joint Resolution, the title of which is set out in the foregoing Message from the House.

MESSAGE FROM THE HOUSE

Mr. President:

The Speaker of the House having signed the following House Bill, your signature thereto is requested.

H. 74. Relating to Mobile County; to amend Act No. 86-545, S. 655, 1986 Regular Session, which creates a County Racing Commission, to delete the residency requirements for certain applicants, owners, and employees; to alter the permissible number of racing days; to authorize a licensee to receive and transmit certain racing broadcasts and to provide that wagering on broadcasts shall be subject to the same commissions as live racing; to further provide for the tax on the contributions to all pari-mutuel pools, the licensees' amount of commission, and the distribution of amounts due on outstanding unredeemed mutuel tickets; to require certain funds be used for capital improvements; to provide further for the distribution of monies received under this act; and to regulate the expenditures of the commission.

GREG PAPPAS,
Clerk.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Bill, the title of which is set out in the foregoing Message from the House.

**SPECIAL ORDER
BILLS ON THIRD READING**

The Senate proceeded to consideration of the special, paramount, and continuing order of business for today, which was the Bill:

H. 253. To amend Section 17-16-11 of the Code of Alabama 1975, relating to primary elections so as to shorten the time period for the filing of declarations of candidacy and for the certification of candidates.

The Standing Committee on Constitution and Elections reported the following substitute for the Bill HB 253, to-wit:

SUBSTITUTE FOR HB 253

**A BILL
TO BE ENTITLED
AN ACT**

To amend Sections 17-10-12, 17-16-11, and 17-7-1 of the Code of Alabama 1975, relating to primary elections and absentee balloting, to shorten the time period for the delivery of absentee ballots for the 1992 election cycle only, and to shorten the time period for the filing of declarations of candidacy, and for the certification of candidates only for the 1992 U. S. Congressional election cycle, and only if the Legislature adopts an approved congressional reapportionment plan in the 1992 Regular Session.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 17-10-12, 17-16-11, and 17-7-1 of the Code of Alabama 1975, are amended to read as follows:

§17-10-12.

"Not less than 40 days prior to the holding of any election to which this chapter pertains, and not less than 15 days for the 1992 election cycle only, or in the case of a run-off primary election to which this chapter pertains, not more than seven days after the first primary election, the officer charged with the printing and distribution of the official ballots and election supplies shall ~~cause to be delivered~~ deliver to the absentee election manager of each county in which the election is held or to the person designated to serve in his or her ~~stead~~ place a sufficient number of absentee ballots, envelopes, and other necessary

supplies. If the absentee election manager is a candidate with opposition in the election, he or she shall immediately, upon receipt of such the ballots, envelopes, and supplies, deliver ~~the same~~ them to the person authorized to act in his or her stead place, as provided for in section Section 17-10-13.

"§17-16-11.

"(a) (1) Except as provided in subdivision (2), all ~~All~~ candidates for nomination to public office or for election to party office in the primary election provided for in this chapter shall file their declaration of candidacy with the state party ~~chairman~~ chair if they seek any ~~office other than a county office (including federal, state, circuit, and or district offices office, or the state senate Senate, and house of representatives House of Representatives), or any other office that is not a county office~~ not later than 5:00 P.M. 60 days before the date of the primary election. ~~and with~~ All candidates for nomination or election to a county office shall file their declaration with the county party ~~chairman~~ chair ~~if they seek a county office~~, not later than 5:00 P.M. 60 days before the date of such the primary election.

"(2) With regard to the 1992 election cycle for candidates for the United States Congress only, and only if the Legislature adopts an approved congressional reapportionment plan in the 1992 Regular Session, candidates shall file their declaration not later than 29 days before the primary election.

"(b) (1) Except as provided in subdivision (2) the ~~The~~ state party ~~chairman~~ chair shall, no later than 5:00 P.M. 55 days before the primary election, certify the names of all primary election candidates, except candidates for county offices, to the ~~secretary of state~~ Secretary of State. The county party ~~chairman~~ chair shall, not later than 5:00 P.M. 55 days prior to the date of the primary election, certify to the probate judge the names of all candidates for nomination to county offices or election to county party offices. The ~~secretary of state~~ Secretary of State shall, not less than 50 days prior to the date of the primary election, and not less than 25 days prior to the primary election in the 1992 election cycle only, certify to the probate judge of every county in which the election is to be held the names of the opposed candidates for nomination to federal, state, circuit, or district offices, the state ~~senate~~ Senate, and ~~house of representatives~~ House of Representatives, and all other opposed candidates to public or party office, except candidates for county offices.

"(2) With regard to the 1992 election cycle for candidates for the United States Congress only, and only if the Legislature adopts an

approved congressional reapportionment plan in the 1992 Regular Session:

"a. The state party chair shall certify the candidates to the Secretary of State not later than 5:00 p.m. 27 days before the primary election.

"b. The Secretary of State shall certify the candidates to the probate judge not later than 5:00 p.m. 25 days before the primary election.

"(c) The probate judge of each county shall have the ballots prepared for the primary election. If a legally qualified candidate for nomination to an office is unopposed when the last date for filing declarations of candidacy has passed, his or her name shall not appear on the ballots to be used in the primary election, and he or she shall be the nominee of the party with which he or she has qualified for the office. If a legally qualified candidate for election to a party office is unopposed when the last date for filing declarations of candidacy has passed, his or her name shall not appear on the ballots to be used in the primary election, and he or she shall be declared elected to the party office for which he or she qualified.

"§17-7-1.

"(a) The following persons shall be entitled to have their names printed on the appropriate ballot for the general election, provided they are otherwise qualified for the office they seek:

"(1) All candidates who have been put in nomination by primary election and certified in writing by the ~~chairman~~ chair and secretary of the canvassing board of the party holding the primary and filed with the probate judge of the county, in the case of a candidate for county office, and the ~~secretary of state~~ Secretary of State in all other cases, on the day next following the last day for contesting the primary election for that office if no contest is filed. If a contest is filed, then the certificate for the contested office must be filed on the day next following the date of settlement or decision of the contest.

"(2) All candidates who have been put in nomination by any caucus, convention, mass meeting, or other assembly of any political party or faction and certified in writing by the ~~chairman~~ chair and secretary of the nominating caucus, convention, mass meeting, or assembly and filed with the probate judge, in the case of a candidate for county office, and the ~~secretary of state~~ Secretary of State in all other cases, on

or before 5:00 P.M. 60 days before the date of the first primary election.

"(3) Each candidate who has been requested to be an independent candidate for a specified office by written petition signed by electors qualified to vote in the election to fill ~~such~~ the office when ~~such~~ the petition has been filed with the probate judge, in the case of a county office and with the ~~secretary of state~~ Secretary of State in all other cases, on or before 5:00 P.M. 60 days before the first primary election. The number of qualified electors signing ~~such~~ the petition shall equal or exceed one percent of the total number of registered voters of:

"a. The county if the office is to be filled by vote of the electors of the entire county;

"b. The state if the office is to be filled by vote of electors of the entire state; or

"c. The district if the office is to be filled by the electors of a district.

"(b) With regard to the 1992 election cycle for candidates for the United States Congress only, and only if the Legislature adopts an approved congressional reapportionment plan in the 1992 Regular Session, candidates shall be certified or qualified on or before 5:00 p.m. 29 days before the first primary election.

"(b) (c) The ~~secretary of state~~ Secretary of State must, not later than six days after the second primary, certify to the probate judge of each county in the state, in the case of an officer to be voted for by the electors of the whole state, and to the probate judges of the counties composing the circuit or district in case of an officer to be voted for by the electors of a circuit or district, upon suitable blanks to be prepared by him or her for that purpose, the fact of nomination or independent candidacy of each ~~such~~ nominee or independent candidate who has qualified with him to appear on the general election ballot. The probate judge shall then prepare the ballot ~~causing to be printed thereon~~ with the names of each candidate qualified under the provisions of this section printed on the ballot; ~~provided, that the~~ The probate judge is prohibited from causing to be printed on the ballot the name of any independent candidate who was a candidate in the primary election of that year."

"Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

RECESS

At 1:50 P.M., on motion of Senator deGraffenried, the Senate took a recess subject to the call of the Chair.

JOINT SESSION

At 2 o'clock P.M., in accordance with HJR 117, the Senate repaired to the Hall of the House of Representatives for the purpose of hearing the message of Dr. William V. Muse, President of Auburn University.

The Session was called to order by Lieutenant Governor Folsom, President and Presiding Officer of the Senate. A quorum of the Legislature was present.

Thereupon, Dr. William V. Muse was escorted to the Chair and delivered his message to the Legislature of Alabama.

At 3:05 P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Joint Resolutions with the original Senate Joint Resolutions, and finds same correctly enrolled, to-wit:

SJR 9. URGING THE LEGISLATURE AND ALL STATE AGENCIES, SCHOOL SYSTEMS AND HIGHER EDUCATION INSTITUTIONS TO PURCHASE RECYCLED PRODUCTS.

Also:

SJR 33. SETTING THE DATE AND TIME FOR A JOINT SESSION OF THE ALABAMA LEGISLATURE TO HEAR AN ADDRESS BY HIS ROYAL HIGHNESS PRINCE KHALED BIN SULTAN BIN ABDULAZIZ OF SAUDI ARABIA.

Also:

SJR 37. RECOGNIZING FORMER HOSTAGE TERRY ANDERSON AND OFFICIALLY INVITING MR. ANDERSON TO

MOBILE, ALABAMA, ON FRIDAY, JUNE 26, 1992, FOR THE PURPOSE OF HONORING HIM FOR WITHSTANDING THE AGONY, BRUTAL TREATMENT FROM HIS CAPTORS AND FOR SURVIVING HIS CAPTIVITY OF 2,455 DAYS AS A UNITED STATES HOSTAGE IN LEBANON.

Also:

SJR 39. INVITING GOVERNOR BILL CLINTON TO ADDRESS A JOINT SESSION OF THE LEGISLATURE.

JIM PREUITT,
Chairperson.

SIGNING OF RESOLUTIONS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after their titles had been publicly read at length by the Secretary of the Senate, signed the foregoing Senate Joint Resolutions, the titles of which are set out in the foregoing report from the Committee on Rules.

REPORT OF COMMITTEE ON RULES

Mr. President:

Your Standing Committee on Rules begs leave to report that said Committee, in session, has compared the following enrolled Senate Bill with the original Senate Bill, and finds same correctly enrolled, to-wit:

S. 64. To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Luverne in Crenshaw County.

JIM PREUITT,
Chairperson.

SIGNING OF BILLS

The President of the Senate, in the presence of the Senate, after the reading thereof at length had been dispensed with by a two-thirds vote of a quorum of the Senate present, and immediately after its title had been publicly read at length by the Secretary of the Senate, signed the foregoing Bill, the title of which is set out in the foregoing report

from the Committee on Rules.

INTRODUCTION OF BILLS

Upon the call of districts, bills were introduced, severally read one time, and referred to appropriate standing committees, as follows:

By Senator Waggoner (With Notice and Proof):

S. 426. Relating to Jefferson County, providing for a salary for the statutory chief clerk of the probate court of said county.

Committee on Local
Legislation No. 2

I hereby certify that the notice and proof is attached to the Bill, SB 426, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Denton (With Notice and Proof):

S. 427. Relating to Colbert County, establishing a sheriff reserve within the county sheriff's department.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 427, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Horn:

S. 428. To provide that certain full-time employees and executive officers of the Alabama Sports Festival, Inc., a nonprofit corporation, may elect to become members of the Teachers' Retirement System of Alabama; to provide that the Alabama Sports Festival, Inc., and its employees shall assume all costs, both contributory and administrative, and no cost shall devolve upon the state; and to provide for the purchase of certain previous service credit.

Committee on Finance
and Taxation

By Senator Mitchell:

S. 429. To amend Section 36-27-6, Code of Alabama 1975, to prescribe terms and conditions whereby certain employees of state or county agencies and departments may become members of the Employees' Retirement System of Alabama.

Committee on Finance
and Taxation

By Senators Bolling and Barron:

S. 430. To amend Section 27-1-16, Code of Alabama 1975, relating to standard health insurance claim forms to provide for certain pharmacy and dental claim forms.

Committee on Banking
and Insurance

By Senators Bedsole and Windom:

S. 431. To amend Section 13A-6-4, Code of Alabama 1975, to provide that criminally negligent homicide is a Class C felony in all cases in which the death is caused by a deadly weapon or dangerous instrument.

Committee on Judiciary/Criminal
Justice and Public Safety

By Senators Bolling and Barron:

S. 432. To regulate the dispensing of hypodermic syringes or needles designed for human use; and to provide penalties for violation of this act.

Committee on Health

By Senators Bolling and Barron:

S. 433. To provide further for the reimbursement of health care providers by insurance companies and to repeal Section 27-1-17 of the Code of Alabama 1975.

Committee on Banking
and Insurance

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By Senator Horn:

S. 434. To make an appropriation from the state general fund to the Parkinson Association of Alabama for the fiscal year ending September 30, 1992, and to require an operations plan and audited financial statement prior to release of any funds.

**Committee on Finance
and Taxation**

By Senator Horn:

S. 435. To amend Section 11-63-1 of the Code of Alabama 1975, relating to financial assistance for certain public corporations so as to provide further for the appointment of the directors.

**Committee on Finance
and Taxation**

By Senator Corbett:

S. 436. To amend Section 32-5-240 of the Code of Alabama 1975, relating to the display of lighting equipment on vehicles, to require all motor vehicles except for passenger cars, motorcycles, and motor-driven cycles to display lighted lamps at all times with certain exceptions.

Committee on Economic Affairs

By Senator Mitchell:

S. 437. Relating to the judicial system and employees of the Supreme Court, Courts of Appeal, and State Law Library; to further provide for court costs in appellate cases to be deposited in the State Law Library Fund and that such funds be invested in an interest-bearing account; and to repeal Sections 12-2-150, 12-2-151, 12-2-152, 12-2-153, 12-2-154, 12-2-155, 12-2-156, 12-2-158, and Sections 12-4-1, 12-4-2, 12-4-3, and 12-4-4, inclusive, Code of Alabama 1975.

Committee on Judiciary/Civil

By Senator Dixon:

S. 438. To exempt the Association for Retarded Citizens of Alabama from the payment of all state, county, and municipal sales and use taxes.

**Committee on Finance
and Taxation**

By Senator Ellis:

S. 439. To amend Section 27-14-3 of the Code of Alabama 1975, to give charitable organizations an insurable interest in the life of any individual under certain conditions.

Committee on Banking
and Insurance

By Senator Floyd:

S. 440. Reappropriating certain funds to the Attalla Board of Education and permitting the board of education to expend the funds for educational purposes.

Committee on Finance
and Taxation

By Senator Foshee:

S. 441. To provide for and establish investigators for the Office of the Attorney General; providing for the hiring, salaries, expenses, authority, and duties of such investigators.

Committee on Economic Affairs

By Senator Foshee:

S. 442. To further provide for preference given to Alabama persons, firms, or corporations in the awarding of public contracts subject to the State Competitive bid law and to amend Section 41-16-27, Code of Alabama 1975.

Committee on Economic Affairs

By Senators Dial and Amari:

S. 443. To amend Section 41-23-1, Code of Alabama 1975, to establish and specify the powers and duties of the Office of Water Resources as a division of the Department of Economic and Community Affairs; and to establish the Alabama Water Resources Commission and authorize the commission to promulgate rules and regulations for the Office of Water Resources.

Committee on Energy and
Natural Resources

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By Senator Floyd:

S. 444. To define further the terms disability insurance and casualty insurance as they relate to workmen's compensation insurance and to amend Sections 27-5-4 and 27-5-6, Code of Alabama 1975.

Committee on Rules

By Senator Ellis (With Notice and Proof):

S. 445. Relating to Shelby County; to allow persons engaged in the businesses of real estate broker or real estate agent to be duly appointed to and to serve on any Shelby County board or commission dealing with the planning, zoning, or subdivision of real estate in Shelby County or any municipal board or commission dealing with the planning, zoning, or subdivision of real estate within any such municipality within Shelby County; and to provide retroactive effect.

Committee on Local
Legislation No. 1

I hereby certify that the notice and proof is attached to the Bill, SB 445, as required in the General Acts of Alabama, 1975, Act No. 919.

McDOWELL LEE,
Secretary.

By Senator Lindsey:

S. 446. To ratify, confirm, and validate ab initio all water, sewer, gas, or electric systems acquired by boards organized under Article 9, Chapter 50, Title 11 of the Code of Alabama 1975, as amended; and to give retroactive effect.

Committee on Economic Affairs

By Senator Corbett:

S. 447. To establish the Alabama Small Business Incubator Act of 1992 to promote and establish small business incubators and entrepreneurial service under the Alabama Department of Economic and Community Affairs.

Committee on Economic Affairs

By Senator Smith (J):

S. 448. To prohibit the sale of alcoholic beverages in any an-

nexed territory of a "dry" county by a "wet" city without an option election.

Committee on Governmental
Affairs/Local Government

By Senator Hale:

S. 449. To amend Section 34-30-22 of the Code of Alabama 1975, to provide for the qualifications for a licensed bachelor social worker.

Committee on Public Welfare

FURTHER CONSIDERATION OF HB 253

The Senate proceeded to further consideration of the Bill, HB 253. The question was on the Committee substitute.

Senator deGraffenried offered the following substitute for the Committee substitute for the Bill, HB 253, to-wit:

SUBSTITUTE FOR SUBSTITUTE FOR HB 253

A BILL TO BE ENTITLED AN ACT

To amend Sections 17-10-12, 17-16-11, and 17-7-1 of the Code of Alabama 1975, relating to primary elections and absentee balloting, to shorten the time period for the delivery of absentee ballots for the 1992 election cycle only, and to shorten the time period for the filing of declarations of candidacy, and for the certification of candidates only for the 1992 U. S. House of Representatives election cycle, and only if the Legislature adopts an approved congressional reapportionment plan in the 1992 Regular Session.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 17-10-12, 17-16-11, and 17-7-1 of the Code of Alabama 1975, are amended to read as follows:

§17-10-12.

"Not less than 40 days prior to the holding of any election to

which this chapter pertains, and not less than 15 days for the 1992 election cycle only, or in the case of a run-off primary election to which this chapter pertains, not more than seven days after the first primary election, the officer charged with the printing and distribution of the official ballots and election supplies shall ~~cause to be delivered~~ deliver to the absentee election manager of each county in which the election is held or to the person designated to serve in his or her ~~stead~~ place a sufficient number of absentee ballots, envelopes, and other necessary supplies. If the absentee election manager is a candidate with opposition in the election, he or she shall immediately, upon receipt of ~~such~~ the ballots, envelopes, and supplies, deliver ~~the same~~ them to the person authorized to act in his or her ~~stead~~ place, as provided for in section Section 17-10-13.

"§17-16-11.

"(a) (1) Except as provided in subdivision (2), all ~~All~~ candidates for nomination to public office or for election to party office in the primary election provided for in this chapter shall file their declaration of candidacy with the state party ~~chairman~~ chair if they seek any ~~office other than a county office (including federal, state, circuit, and or district offices office, or the state senate Senate, and house of representatives House of Representatives)~~, or any other office that is not a county office not later than 5:00 P.M. 60 days before the date of the primary election. ~~and with~~ All candidates for nomination or election to a county office shall file their declaration with the county party ~~chairman~~ chair if they seek a county office, not later than 5:00 P.M. 60 days before the date of ~~such~~ the primary election.

"(2) With regard to the 1992 election cycle for candidates for the United States House of Representatives only, and only if the Legislature adopts an approved congressional reapportionment plan in the 1992 Regular Session, candidates shall file their declaration not later than 29 days before the primary election.

"(b) (1) Except as provided in subdivision (2) the ~~The~~ state party ~~chairman~~ chair shall, no later than 5:00 P.M. 55 days before the primary election, certify the names of all primary election candidates, except candidates for county offices, to the ~~secretary of state~~ Secretary of State. The county party ~~chairman~~ chair shall, not later than 5:00 P.M. 55 days prior to the date of the primary election, certify to the probate judge the names of all candidates for nomination to county offices or election to county party offices. The ~~secretary of state~~ Secretary of State shall, not less than 50 days prior to the date of the primary election, and not less than 25 days prior to the primary election in the 1992 election

cycle only, certify to the probate judge of every county in which the election is to be held the names of the opposed candidates for nomination to federal, state, circuit, or district offices, the state ~~senate~~ Senate, and ~~house of representatives~~ House of Representatives, and all other opposed candidates to public or party office, except candidates for county offices.

"(2) With regard to the 1992 election cycle for candidates for the United States House of Representatives only, and only if the Legislature adopts an approved congressional reapportionment plan in the 1992 Regular Session:

"a. The state party chair shall certify the candidates to the Secretary of State not later than 5:00 p.m. 27 days before the primary election.

"b. The Secretary of State shall certify the candidates to the probate judge not later than 5:00 p.m. 25 days before the primary election.

"(c) The probate judge of each county shall have the ballots prepared for the primary election. If a legally qualified candidate for nomination to an office is unopposed when the last date for filing declarations of candidacy has passed, his or her name shall not appear on the ballots to be used in the primary election, and he or she shall be the nominee of the party with which he or she has qualified for the office. If a legally qualified candidate for election to a party office is unopposed when the last date for filing declarations of candidacy has passed, his or her name shall not appear on the ballots to be used in the primary election, and he or she shall be declared elected to the party office for which he or she qualified.

"§17-7-1.

"(a) The following persons shall be entitled to have their names printed on the appropriate ballot for the general election, provided they are otherwise qualified for the office they seek:

"(1) All candidates who have been put in nomination by primary election and certified in writing by the ~~chairman~~ chair and secretary of the canvassing board of the party holding the primary and filed with the probate judge of the county, in the case of a candidate for county office, and the ~~secretary of state~~ Secretary of State in all other cases, on the day next following the last day for contesting the primary election for that office if no contest is filed. If a contest is filed, then the certificate for the contested office must be filed on the day next following the date of

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settlement or decision of the contest.

"(2) All candidates who have been put in nomination by any caucus, convention, mass meeting, or other assembly of any political party or faction and certified in writing by the ~~chairman chair~~ and secretary of the nominating caucus, convention, mass meeting, or assembly and filed with the probate judge, in the case of a candidate for county office, and the ~~secretary of state~~ Secretary of State in all other cases, on or before 5:00 P.M. 60 days before the date of the first primary election.

"(3) Each candidate who has been requested to be an independent candidate for a specified office by written petition signed by electors qualified to vote in the election to fill ~~such the~~ office when ~~such the~~ petition has been filed with the probate judge, in the case of a county office and with the ~~secretary of state~~ Secretary of State in all other cases, on or before 5:00 P.M. 60 days before the first primary election. The number of qualified electors signing ~~such the~~ petition shall equal or exceed one percent of the total number of registered voters of:

"a. The county if the office is to be filled by vote of the electors of the entire county;

"b. The state if the office is to be filled by vote of electors of the entire state; or

"c. The district if the office is to be filled by the electors of a district.

"(b) With regard to the 1992 election cycle for candidates for the United States House of Representatives only, and only if the Legislature adopts an approved congressional reapportionment plan in the 1992 Regular Session, candidates shall be certified or qualified on or before 5:00 p.m. 29 days before the first primary election.

"(b) (c) The ~~secretary of state~~ Secretary of State must, not later than six days after the second primary, certify to the probate judge of each county in the state, in the case of an officer to be voted for by the electors of the whole state, and to the probate judges of the counties composing the circuit or district in case of an officer to be voted for by the electors of a circuit or district, upon suitable blanks to be prepared by him or her for that purpose, the fact of nomination or independent candidacy of each ~~such~~ nominee or independent candidate who has qualified ~~with him~~ to appear on the general election ballot. The probate judge shall then prepare the ballot ~~causing to be printed thereon~~ with the

names of each candidate qualified under the provisions of this section printed on the ballot; ~~provided, that the~~ The probate judge is prohibited from causing to be printed on the ballot the name of any independent candidate who was a candidate in the primary election of that year."

"Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Which was adopted.

And said Committee substitute, as amended by the substitute, was then adopted.

Yeas 22 Nays 3
Abstaining 1

Yeas:

Senators:

Amari, Bailey, Bedsole, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Floyd, Ghee, Horn, Langford, Lindsey, Lipscomb, Little, Mitchell, Owens, Parsons, Preuitt, and Windom -22

Nays:

Senators:

Dixon, Hale, and Waggoner - 3

Abstaining: Senator Sanders - 1

And said Bill, HB 253, as amended by the substitute, as amended, was read a third time at length and passed.

Yeas 21 Nays 7
Abstaining 1

Yeas:

Senators:

Bailey, Bennett, Bolling, Campbell, Corbett, deGraffenried, Denton, Dial, Figures, Floyd, Foshee, Ghee, Horn, Langford, Lindsey, Little, Mitchell, Owens, Parsons, Preuitt, and Windom -21

Nays:

Senators:

Amari, Bedsole, Dixon, Ellis, Hale, Lipscomb, and Waggoner - 7

Abstaining: Senator Sanders - 1

RESOLUTION

The Standing Committee on Rules offered the following Senate Resolution, to-wit:

SR 49. SPECIAL ORDER CALENDAR.

RESOLVED BY THE SENATE That the following bill shall be the paramount and continuing order of business taking precedence over all other matters for the thirteenth legislative day of the 1992 Regular Session only:

Page

S. 122	12
Workers' compensation, substantially revised, admin. law judges estab., ct. procedure alt., medical charges capped, numerous secs. of Title 25 am'd. and repealed	

On motion of Senator Preuitt, the Resolution was adopted by the Senate.

**SPECIAL ORDER
BILLS ON THIRD READING RESUMED**

The Senate proceeded to consideration of the second special, paramount, and continuing order of business for today, which was the Bill:

S. 122. To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 2, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation specialist program, mandatory benefit review conferences, and adjudication of claims by administrative law judges within the Division of Workers' Compensation of the Department of Industrial Relations; to create the Workers' Compensation Trust Fund and provide for assessments on insurers, self-insured employers, and groups of insurers, to repeal Sections 25-5-6, 25-5-12, 25-5-16, 25-5-70 to 25-5-75, inclusive, 25-5-81, 25-5-88, 25-5-89, 25-5-91, 25-5-92, 25-5-93, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975; and to provide for certain implementation dates for various sections of the act.

having been postponed on the Twelfth Legislative Day, was taken up.

RESOLUTION

Senator Foshee requested and received permission to suspend the Rules in order to offer the following Senate Resolution, to-wit:

SR 50. RELATIVE TO ADJOURNMENT.

BE IT RESOLVED BY THE SENATE OF ALABAMA, That when the Senate adjourns today, Tuesday, March 10, 1992, it adjourns to meet again on Wednesday, March 11, 1992, at 11:00 a.m., and when the Senate adjourns on Wednesday, March 11, 1992, it adjourns to meet again on Tuesday, March 17, 1992.

On motion of Senator Foshee, the Resolution was adopted by the Senate.

FURTHER CONSIDERATION OF SB 122

The Senate proceeded to further consideration of the Bill, SB 122.

Senator deGraffenried offered the following substitute for the Bill, SB 122, to-wit:

SUBSTITUTE FOR SB 122**A BILL
TO BE ENTITLED
AN ACT**

To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975; to establish a workers' compensation specialist program, mandatory benefit review conferences; and to repeal Sections 25-5-16, 25-5-70 to 25-5-75, inclusive, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. It is the intent of the Legislature that the Workers' Compensation Division of the Department of Industrial Relations and the Alabama judicial system shall administer the Alabama Workers' Compensation Law to provide a workers' benefit system to insure the quick and efficient payment of compensation and medical benefits to injured and disabled workers at a reasonable cost to the employers who are subject to the Alabama Workers' Compensation Law. It is the specific intent of the Legislature that workers' compensation benefit claim cases be decided on their merits. The Alabama Workers' Compensation Law is remedial in nature and should be liberally construed to effectuate the intended beneficial purposes. However, even a liberality of construction does not abrogate the measure of proof or sufficiency of evidence.

It is also the intent of the Legislature in adopting this workers' compensation scheme to address difficulties in the current scheme that are producing a debilitating and adverse effect on the state's ability to retain existing industry and attract new industry. The Legislature finds that the current Workmen's Compensation Law of Alabama and other means of compensation or remedy for injury in the workplace has unduly increased cost to employers in the state, driven away jobs, and produced no concomitant benefit. There is a total absence of any reliable evidence that the current act has resulted in fewer injuries on the job, and a considerable body of evidence that any added benefit to the worker is significantly offset by the resulting reduction in job opportunities.

The Legislature has reviewed substantial evidence related to various types of cumulative physical stress disorders, cumulative trauma disorders and certain "natural aging" disorders, including carpal tunnel syndrome, repetitive motion syndrome, and even back and neck infirmities that result from gradual deterioration or the natural process of aging. The Legislature has concluded that it is extremely difficult for the adjudicator of fact to determine whether these disorders are related to work or whether they result from some congenital defect, aging processes, or simply the routine activities of daily living.

These claims also account for a substantial percentage of the workers' compensation claims in this state and are one of the contributing causes of the current workers' compensation crisis facing this state.

It is the finding and expressed intent of the Legislature that the existence of a fair and affordable workers' compensation system within the State of Alabama materially contributes to the economic growth and prosperity of the state and all its citizens. It is the further finding of the Legislature that the provision of quality medical services to employees injured in the workplace at a reasonable and fair cost to employers is an important part of a workers' compensation system.

Section 2. Section 25-5-1, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 1.
"GENERAL PROVISIONS.

"§25-5-1.

"Throughout this chapter, the following words and phrases as used

therein shall be considered to have the following meanings, respectively, unless the context shall clearly indicate a different meaning in the connection used:

"(1) COMPENSATION. ~~Such term indicates the~~ The money benefits to be paid on account of injury or death, as provided in Articles 3 and 4. Strictly speaking, the benefit The recovery which an employee may receive by action at law under article Article 2 of this chapter is damages, termed 'recovery of civil damages,' and this is indicated as provided for in section Sections 25-5-31 and 25-5-34. To avoid confusion, the word "compensation" has been used in this chapter, but it should be understood that under article 2 the compensation by way of damages is determined by a civil action. Such term 'Compensation' does not include medical and surgical treatment and attention, medicine, medical and surgical supplies, and crutches and apparatus furnished an employee on account of an injury.

"(2) CHILD or CHILDREN. ~~Such~~ The terms include posthumous children and all other children entitled by law to inherit as children of the deceased; stepchildren who were members of the family of the deceased, at the time of the accident, and were dependent upon him or her for support; a grandchild of the deceased employee, whose father is dead or is an invalid, and who was supported by and a member of the family of ~~such the~~ the deceased grandparent at the time of the accident.

"(3) DEPENDENT CHILD or ORPHAN. An unmarried child under the age of 18 years or one over that age who is physically or mentally incapacitated from earning.

"(4) EMPLOYER. Every person ~~not excluded by section 25-5-50~~ who employs another to perform a service for hire and pays wages directly to ~~such the~~ the person, or who provides workers' compensation coverage for another either by payment of insurance premiums or by provisions of self-insured coverage. ~~Such~~ The term shall include a service company for a self-insurer or any person, corporation, copartnership, or association, or group thereof, and shall, if the employer is insured, include his or her insurer, ~~such the~~ the insurer being entitled to the employer's rights, immunities, and remedies under this chapter, as far as applicable, and shall not include one who regularly employs a number less than three in any business; provided, however, that the The inclusion of an employer's insurer within ~~such the~~ the term shall not provide ~~such the~~ the insurer with immunity from liability to an injured employee, or his or her dependents dependent in the case of his death to whom the insurer would otherwise be subject to liability under ~~the~~

~~provision of Section 25-5-11. Notwithstanding any section of articles 2 and 3 the provisions of this chapter, in no event shall a common carrier by motor vehicle operating pursuant to a certificate of public convenience and necessity be deemed the 'employer' of a leased-operator or owner-operator of a motor vehicle or vehicles under contract to such the a common carrier.~~

~~"(5) PHYSICIAN. Such term shall include 'surgeon,' and, in either case, shall mean one authorized by law to practice his profession within one of the United States and in good standing in his profession at the time.~~

"(5) PHYSICIAN. For the purposes of this chapter, the term 'physician' shall include 'surgeon,' and 'chiropractor,' and in all cases, shall mean one authorized by law to practice his or her profession within the United States, and in good standing in his or her profession at the time.

~~"(6) EMPLOYEE, WORKER, WORKMEN and WORKMAN. EMPLOYEE or WORKER. Such The terms are used interchangeably, and have the same meaning throughout this chapter, and shall be construed to mean the same. Such The terms include the plural and all ages and both sexes. Such The terms include every person not excluded by section 25-5-50, in the service of another under any contract of hire, express or implied, oral or written, including aliens and also including minors who are legally permitted to work under the laws of this state, and also including all employees of Tannehill furnace and foundry commission. Any reference in this chapter to a 'workman' 'worker' or 'employee' shall, where if the workman worker or employee is dead, include his or her dependents dependent, as defined in this chapter, if the context so requires.~~

~~"(7) WAGES or WEEKLY WAGES. Such The terms shall in all cases, unless the context clearly indicates a different meaning, be construed to mean 'average weekly earnings' based on those earnings subject to federal income taxation and reportable on the Federal W-2 tax form which shall include voluntary contributions made by the employee to a tax-qualified retirement program, voluntary contributions to a Section 125-cafeteria program, and fringe benefits as defined herein. Average weekly earnings shall not include fringe benefits if and only if the employer continues the benefits during the period of time for which compensation is paid. 'Fringe benefits' shall mean only the employer's portion of health, life, and disability insurance premiums. Every person, not excluded by section 25-5-50, in the service of another under any contract of hire, express or implied, oral or written, includes aliens~~

~~and also includes minors who are legally permitted to work under the laws of the state.~~

"(8) ACCIDENT. ~~Such~~ The term, as used in the phrases 'personal injuries due to accident' or 'injuries or death caused by accident' shall, ~~unless a different meaning is clearly indicated by the context,~~ be construed to mean an unexpected or unforeseen event, happening suddenly and violently, with or without human fault, and producing at the time injury to the physical structure of the body or damage to an artificial member of the body by accidental means.

~~"(9) INJURIES BY AN ACCIDENT ARISING OUT OF AND IN THE COURSE OF HIS EMPLOYMENT. Without otherwise affecting either the meaning or interpretation of such clause, such clause does not cover workmen except while engaged in or about the premises where their services are being performed or where their service requires their presence as a part of such service at the time of the accident and during the hours of service as such workmen, and shall not include any injury caused by the act of a third person or fellow employee intended to injure the employee because of reasons personal to him and not directed against him as an employee or because of his employment, and it shall not include a disease unless the disease results proximately from the accident.~~

"(9) INJURY. 'Injury and personal injury' shall mean only injury by accident arising out of and in the course of the employment, and shall not include a disease in any form, except for an occupational disease or where it results naturally and unavoidably from the accident. Injury shall include breakage or damage to eyeglasses, hearing aids, dentures, or other prosthetic devices which function as part of the body, when injury to them is incidental to an on-the-job injury to the body. Injury does not include an injury caused by the act of a third person or fellow employee intended to injure the employee because of reasons personal to him or her and not directed against him or her as an employee or because of his or her employment. Injury does not include a mental disorder or mental injury that has neither been produced nor been proximately caused by some physical injury to the body.

"(10) ARISING OUT OF THE EMPLOYMENT. For an injury to 'arise out of the employment,' the employment must have subjected the injured individual to a risk of that injury which is materially in excess of the risk of that injury to which persons not so employed are subjected.

"(11) IN THE COURSE OF THE EMPLOYMENT. An accident occurs in the course of the employment when it occurs while the

employee is engaged in the performance of his or her duties, or activities incidental thereto, either on the business premises or at a place where the employee reasonably may be engaged in his or her duties.

"~~(10)~~ (12) SINGULAR AND PLURAL. Wherever the singular is used, the plural shall be included.

"~~(11)~~ (13) GENDER. Where the masculine gender is used, the feminine and neuter shall be included.

"~~(12)~~ (14) LOSS OF HAND or FOOT. ~~Amputations~~ Amputation between the elbow and wrist shall be considered as the equivalent to the loss of a hand, and the amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot.

"(15) PREVAILING. For purposes of this chapter, the term 'prevailing' shall mean most commonly occurring reimbursements for health services within a 'district,' as defined herein, other than those provided by federal and state programs for the elderly (Medicare) and economically disadvantaged (Medicaid). 'Prevailing' shall include not only amounts per procedure code, but also commonly used adjudication rules as applied to multiple procedures, global procedures, use of assistant surgeons, and others as appropriate. For hospitals, 'prevailing' rate of reimbursement or payment shall be established by the method contained in Section 25-5-77.

"(16) PROVIDERS. As used herein for the purposes of this chapter, 'providers' includes physicians and also includes a physical therapist, hospital, medical clinic, pharmacist, pharmaceutical supply company, rehabilitation service, or other person or entity providing treatment, service, or equipment or person or entity providing facilities at which the employee receives treatment.

"(17) MEDICAL. As used herein for the purposes of this chapter, 'medical' includes all services, treatment, or equipment provided by all providers.

"(18) PARTICIPATING AND NONPARTICIPATING HOSPITALS. As used herein for the purposes of this chapter, the term 'participating hospital' shall mean those hospitals that have a negotiated rate of reimbursement or payment with the Department of Industrial Relations. 'Nonparticipating hospitals' shall mean those hospitals that have not negotiated a rate of reimbursement or payment with the Department of Industrial Relations.

"(19) HOSPITAL. As used herein for the purposes of this chap-

ter, the term 'hospital' shall include a hospital, ambulatory surgical center, outpatient rehabilitation centers, and diagnostic facilities licensed by the state of Alabama.

"(13) (20) THE COURT. ~~Such term shall mean the~~ The circuit court ~~which that~~ would have jurisdiction in an ordinary civil action involving a claim for the injuries or death in question, and 'the judge' ~~shall mean~~ means a judge of ~~said that~~ court.

"(21) UTILIZATION REVIEW. For purposes of this chapter, 'utilization review' shall be defined as the determination of medical necessity for medical and surgical in-hospital, out-patient, and alternative settings treatments for acute and rehabilitation care. It shall include precertification for elective treatments. Concurrent review and, if necessary, retrospective review are required for emergency cases.

"(22) BILL SCREENING. For purposes of this chapter, 'bill screening' shall be defined as the evaluation and adjudication of provider bills for appropriateness of reimbursement relative to medical necessity and prevailing rates of reimbursement, duplicate charges, unbundling of charges, relativeness of services to injury or illness, necessity of assistant surgeons, adjudication of multiple procedures, number of modalities, global procedures, and any other prevailing adjudication issues that may apply.

"(23) ADJUDICATION. For purposes of this chapter, 'adjudication' means the review of claims to apply prevailing rules that adjust reimbursements for the amount of work required when multiple procedures are performed at the same time, when assisting surgeons are present, to eliminate duplicate billing from the unbundling of global fees, and to adjust for the most commonly occurring method adopted for total reimbursement.

"(24) DISTRICT. A number of appropriate areas of the state as determined by an independent consultant pursuant to Section 44 for the purposes of ascertaining the prevailing rate of similar treatment."

Section 3. Section 25-5-2, Code of Alabama 1975, is amended to read as follows:

"§25-5-2.

"The Director of the Department of Industrial Relations of the state of Alabama shall gather statistics on accidents and their causes and shall generally be responsible for the efficient administration of this

chapter ~~and, to~~. To this end, he or she shall ~~have full power to make or cause to be made~~ the necessary investigations and examinations in connection with the settlement of all ~~workmen's~~ workers' compensation claims. As used in this chapter, the word 'director' shall ~~be construed to mean the Director of the 'Department of Industrial Relations' or the director thereof unless a contrary meaning plainly appears."~~

Section 4. Section 25-5-3, Code of Alabama 1975, is amended to read as follows:

"§25-5-3.

~~"The director of the department of industrial relations shall prepare and cause to be printed, at the expense of the state, and to be paid for as other supplies are paid for, and upon request furnish free of charge sample copies to any employer or employee such the blank forms and literature as he or she shall deem requisite to facilitate or promote the efficient administration of articles Articles 2 and 3 2, 3, and 4 of this chapter, other than the papers relating to court proceedings. The director shall adopt and cause a standardized claim reimbursement form to be used by providers. The director shall also assist providers in developing a system for electronic reporting, billing, and payment in workers' compensation cases. Standardized claim reimbursement forms for providers shall be approved by the director and the medical advisory committee."~~

Section 5. Section 25-5-4, Code of Alabama 1975, is amended to read as follows:

"§25-5-4.

~~"Every~~ An employer shall keep a record of all injuries, fatal or otherwise, received by his or her employees arising out of and in the course of their employment and for which compensation is claimed or paid, received by his employees in the course of their employment. Within 15 days after the occurrence of ~~such the~~ injuries and knowledge thereof by the employer, a report of the same shall be made to the department ~~of industrial relations~~ on forms approved by ~~said the~~ department. At the discretion of the director, reports received under ~~the provisions of this chapter~~ may be destroyed after 12 years."

Section 6. Section 25-5-8, Code of Alabama 1975, is amended to read as follows:

"§25-5-8.

"(a) Option to insure risks. ~~Every~~ An employer ~~who accepts subject to the provisions of this chapter~~ may secure the payment of compensation under this chapter by insuring and keeping insured his or her liability in some insurance corporation, association, organization, or insurance association, or corporation, or association formed of employers and ~~workmen~~ workers or formed by a group of employers to insure the risks under this chapter, operating by mutual assessment or other plans or otherwise; ~~provided, that such.~~ Notwithstanding the foregoing, the insurance association, organization, or corporation shall have first had its contract and plan of business approved in writing by the director Commissioner of the Department of Insurance of Alabama and have been authorized by the said Department of Insurance to transact the business of workmen's workers' compensation insurance in this state and under such the charter or plan.

"(b) Option to operate as self-insurer. ~~Every~~ An employer subject to ~~the provisions of this chapter~~ who elects not to insure his or her liability thereunder shall furnish satisfactory proof to the director of ~~industrial relations~~ of his or her financial ability to pay directly such compensation in the amount and manner and when due as provided by this chapter. ~~whereupon~~ Whereupon, the director shall authorize said the employer to operate as a self-insurer. ~~; provided, however, that the director may require such employer to post a surety bond or to deposit in a depository designated by the director money or securities of a kind and in an amount reasonably determined by the director and subject to such reasonable conditions as the director may prescribe, which shall include authorization to the director in case of default to sell any such securities to pay benefits due or to file a civil action upon such bond to procure payment of benefits under this chapter.~~ The director may also prescribe other reasonable rules and regulations for the purpose of protecting the injured employee or the employee's dependents and set reasonable fees to accompany self-insurance applications.

"(c) Evidence of compliance. ~~Every~~ An employer subject to the ~~provisions of this chapter~~ shall file with the director, on a form prescribed by the director, annually or as often as the director in his or her discretion deems necessary, evidence of compliance with the requirements of this section. In cases where insurance is taken with a carrier duly authorized to write such insurance in this state, notice of insurance coverage filed by the carrier shall be sufficient evidence of compliance by the insured.

"(d) Certificate of compliance.

"(1) ISSUANCE, REVOCATION, ETC. ~~Whenever an employer~~

~~has complied~~ Upon the employer's complying with the provisions of subsection (b) of this section relating to self-insurance, the director shall issue to ~~such~~ the employer a certificate, which shall remain in force for a period fixed by the director. ~~The director may, upon~~ Upon 60 days notice and hearing to the employer, ~~the director may,~~ for financial reasons, for failure of the employer to faithfully discharge his or her obligations according to the agreements contained in his or her application for self-insurance, or for the violation of any reasonable rule or regulation prescribed by the director, revoke the self-insurance certificate, in which case the employer shall immediately insure his or her liability. Certificates of self-insurance issued prior to September 17, 1973, shall continue in force but shall become subject to revocation as provided in this subsection. At any time after ~~such~~ the revocation, the director may grant a new certificate to the employer upon his application by the employer.

"(2) APPEALS. An appeal may be taken from any ruling of the director under subsection (b) of this section ~~and~~ or under this subsection to the circuit court of any county wherein the employer does business. Trial in ~~such~~ the court shall be de novo and without a jury ~~unless the employer demands a jury trial at the time of taking such appeal, provided, however, that the~~. The taking of ~~any such~~ an appeal shall not stay the ruling or order appealed from unless good and sufficient bond approved by the judge of the court to which the appeal is taken shall be filed with the clerk of ~~said~~ the court, conditioned on complying with such order as may be legally made effective and further conditioned upon payment by the employer of all final ~~judgments~~ orders for compensation that may be rendered against ~~him~~ the employer pending the disposition of ~~such~~ the appeal.

"(e) Penalties for failure to secure payment of compensation; injunctions. ~~Any~~ An employer required to secure the payment of compensation under this section who fails to secure compensation shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than ~~\$25.00~~ one hundred dollars (\$100) nor more than ~~\$1,000.00~~ one thousand dollars (\$1,000). In addition ~~thereto, any~~ an employer required to secure the payment of compensation under this section who fails to secure ~~such~~ the compensation shall be liable for two times the amount of compensation which would have otherwise been payable for injury or death to an employee. The director ~~is authorized to may~~ may apply to ~~any~~ a court of competent jurisdiction for an injunction to restrain threatened or continued violation of any provisions relating to the requirements of insurance or self-insurance. The court may institute civil penalties against an employer in noncompliance with this act, in an amount not to exceed one hundred dollars (\$100) per day. Subsequent

compliance with this act shall not be a defense.

"(f) Employer insurance policies.

"(1) REQUIRED AND PROHIBITED PROVISIONS. Insurance policies written pursuant to this section shall contain a clause to the effect that, as between the ~~workman~~ worker and the insurer, notice to and knowledge by the employer of the occurrence of the injury shall be deemed notice and knowledge on the part of the insurer; that jurisdiction of the employer for the purpose of this chapter shall be jurisdiction of the insurer; and, that the insurer will in all things be bound by and subject to the ~~awards, adjudgment~~ award or judgment rendered against ~~such the~~ employer upon the risk so insured. ~~Such The~~ policies shall provide that the ~~workman~~ worker shall have an equitable lien upon any amount ~~which that~~ shall become owing, on account of ~~such the~~ policy, to the employer from the insurer, and, in case of legal incapacity or inability of the employer to receive the ~~said~~ amount owing and pay it over to the ~~workman~~ worker or his or her ~~dependents~~ dependent, that the ~~said~~ insurer will pay the same direct to the ~~said workman~~ worker or ~~dependents~~ dependent, thereby discharging all obligations under the policy to the employer and all the obligations of the employer and the insurer to the ~~workman~~, worker. ~~but such~~ Such policies, however, shall contain no obligations relieving the insurance company from payment of obligations ~~when if~~ the employer becomes insolvent or discharged in bankruptcy or otherwise during the period the policy is in force, if the compensation remains owing. The insurer must be one authorized by law to conduct ~~such~~ business in the state of Alabama, and all insurance companies writing such insurance may include in their policies, in addition to the requirements now provided by law, the additional requirements, terms, and conditions ~~in this section~~ provided in this section.

"(2) FILING OF AND APPROVAL OF PREMIUM AND RISK CLASSIFICATIONS. ~~Every An~~ insurance corporation, mutual corporation, reciprocal exchange, or association authorized to transact the business of ~~workmen's~~ workers' compensation insurance in this state and which insures employers against liability for compensation under ~~the provisions of~~ this chapter shall file with the Department of Insurance its classification of risks and premiums relating thereto and any subsequent proposed classification of risks and premiums, together with the basic rates and merit-rating schedules, if a system of schedule rating or merit rating is used by ~~such the~~ insurance corporation, exchange, or association, none of which shall take effect until the ~~director~~ Commissioner of the Department of Insurance shall have approved the same as reasonable, adequate, and not excessive. All filings with the Department

of Insurance containing aggregate industry data of classifications of risks and premiums, rates, and merit-rating schedules pertaining to workers' compensation insurance shall be public records, notwithstanding any other provisions of Alabama law. The Commissioner of the Department of Insurance shall convene a public hearing with reasonable public notice for the purpose of considering public testimony and other evidence relevant to any filing. Prior to approval of any bureau loss cost or rate filing related to workers' compensation insurance, the Commissioner of the Department of Insurance may convene a public hearing with reasonable public notice for the purpose of considering public testimony and other evidence relevant to the filing pending. Within 10 days after such approval, of said rates, schedules and system of schedule or merit rating by said director the Commissioner of the Department of Insurance, he shall make or cause to be made a sufficient number of printed or typewritten copies of same for such that purpose, and shall mail at least one copy of each of the same to every insurance carrier writing workmen's workers' compensation business in the state of Alabama, at its the carrier's last address or at the last address of its designated agent to receive the same left in writing by such carrier with said department. And every such The insurance carrier shall (or if such insurance carrier it is a member of or associated with a rating or inspection bureau, either or both of them, or a concern or aggregation of like character, it shall cause such the rating and inspection bureau, either or both, or concern or aggregation of like character with which it is affiliated to do so) file with the Department of Insurance a full and complete statement of the actuarial and underwriting experience data and the like in its possession, from which and upon which said the rates, schedules, and systems so filed were ascertained, calculated, and constructed, and, within six months after the expiration of each succeeding six months, shall file a like statement of all actuarial and underwriting data and the like, pertaining to such the rates, schedules, and system accumulated or acquired by it during the preceding six months. Upon failure to file said the statement within the time specified above, said the rates, schedules, or and systems may be presumed by the director Commissioner of the Department of Insurance, without more, to be excessive, unreasonable, inadequate to provide the necessary reserves, or discriminatory, as the case may be. The said director Commissioner of the Department of Insurance may withdraw his or her approval of any premium rate or schedule made by any such an insurance corporation, association, mutual corporation, or reciprocal exchange, if, in his or her judgment, such the premium rate or schedule is excessive, or unreasonable, or discriminatory, or is inadequate to provide the necessary reserves. The commissioner shall withdraw approval of any premium rate or schedule shown by a motor common carrier employer to be conditioned on the motor common carrier accepting the coverage of owner-operators or

lease-operators as a condition to providing coverage for the motor common carrier employer's employees.

"Nothing contained in this chapter or in any other law of this state shall affect the right of ~~any an~~ insurance corporation or ~~any a~~ mutual or reciprocal insurance corporation or association to issue participating policies or contracts or to pay savings, refunds, or dividends upon such the policies or contracts.

"(3) PAYMENT OF INSURANCE COSTS BY EMPLOYEES.

No agreement by an employee to pay to an employer any portion of the cost of insuring his or her risk under this chapter shall be valid unless ~~such the~~ agreement between the employer and employee, the plan of which is part of a contract, is approved in writing by the ~~director commissioner of the department of insurance of the state of Alabama.~~ But the employer and the ~~workman~~ worker may agree to carry the risks covered by this chapter in conjunction with other and greater risks and to provide other and greater benefits, such as additional compensation; accident, sickness, or old age insurance; or benefits, and the fact that ~~such the~~ plan involves a contribution by the ~~workman~~ worker shall not prevent its validity if ~~such the~~ plan has been approved in writing by the ~~director commissioner of the department of insurance of Alabama.~~ Any An employer who ~~shall make~~ makes any charge or deduction prohibited by this section ~~shall be is~~ guilty of a misdemeanor.

"(4) DIRECT ACTIONS AGAINST INSURERS. If the employer ~~shall insure to his employees~~ insures the payment of the compensation provided by this chapter and according to the full benefits thereof and with full coverage under this chapter in a corporation or association authorized to do business in ~~the state of Alabama~~ and approved by the ~~director commissioner of the department of insurance of the state of Alabama,~~ and if the employer ~~shall post~~ posts a notice or notices in a conspicuous place or in conspicuous places about his or her place of employment, stating that he or she is insured and by whom insured; and if the employer ~~shall further file~~ files a copy of ~~such the~~ notice with the Department of Insurance, then, and in such case, any civil actions brought by an injured employee or ~~his the employee's dependents~~ dependent shall be brought directly against the insurer, and the employer, or insured, shall be released from any further liability. ~~In case of insolvency or bankruptcy of said insurance company or in case If~~ the insurance company is insolvent or bankrupt, or if it cannot be reached by due diligence by process in this state, the employer shall not be released from liability under ~~the provisions of~~ this chapter. Should any recovery be had in excess of the amount of the insurance carried, the employer shall be liable for ~~such the~~ excess. The return of ~~any~~

execution upon ~~any~~ a judgment of ~~any~~ an employee against ~~any such an~~ insurance company, unsatisfied in whole or in part, shall be conclusive evidence of the insolvency of ~~such the~~ insurance company for the purposes of this chapter, and, ~~in the event of adjudication of bankruptcy or insolvency of any such insurance company~~ if the insurance company is adjudged to be bankrupt or insolvent by ~~any~~ a court of competent jurisdiction, proceedings may be brought by the employee against the employer in the first instance or against ~~such the~~ employer and the insurance company jointly or severally or in ~~any~~ a pending proceeding against ~~any the~~ insurance company, and the employer may be joined at any time after ~~such the~~ adjudication.

"(g) Employer bill of rights-penalty.

"(1) Every insurance carrier and self-insurers, individual and group, shall, on written request of the insured employer, provide the employer with a list of claims made against the employer. The information provided to the employer shall include amounts paid for closed claims and, if requested, details regarding the treatment and condition of the injured or disabled worker. The employer shall also receive notice of any proposed settlement of any claim against the employer if the employer so requests in writing.

"(2) In the event a court determines and makes a finding that a worker has filed a fraudulent claim for workers' compensation benefits under this act, the provisions of Section 25-5-11.1 shall not apply to the employer. In addition to the denial of workers' compensation benefits under this act, the employer, upon such a finding that a worker has filed a fraudulent claim for workers' compensation benefits under this act, may terminate the worker.

"(3) Failure to comply with subdivision (1) may subject the violator to a fine, upon hearing by a court, of not less than twenty-five dollars (\$25) or more than one hundred dollars (\$100)."

Section 7. Section 25-5-10, Code of Alabama 1975, is amended to read as follows:

"§25-5-10.

"(a) Any A person who creates or carries into operation any fraudulent scheme, artifice, or device to enable him to execute work without himself being responsible to the workman worker for the provisions of benefits provided by this chapter shall himself be included in the term 'employer' and shall be subject to all the liabilities of em-

~~ployers under this chapter. But this section shall not be construed to cover or mean an owner who lets a contract to a contractor in good faith, nor to a contractor who, in good faith, lets to a subcontractor a portion of his contract; but no person shall be deemed a contractor or subcontractor so as to make him liable to pay compensation within the meaning of this section who performs his work upon the employer's premises, with the employer's tools or appliances, and under the employer's directions, nor one who does what is commonly known as "piece work," or, in any way, where the system of employment used merely provides a method of fixing the workman's wages.~~

"(b) When compensation is claimed from or proceedings taken against a person under subsection (a) of this section, the compensation shall be calculated with reference to the wage the workman worker was receiving from the person by whom he or she was immediately employed at the time of the injury.

"(c) The employer shall not be liable or required to pay compensation for injuries due to the acts of or omissions of third persons not at the time in the service of the employer nor engaged in the work in which the injury occurs, except as provided in Section 25-5-11."

Section 8. Section 25-5-11, Code of Alabama 1975, is amended to read as follows:

"§25-5-11.

"(a) ~~Where~~ If the injury or death for which compensation is payable under Articles 3 or 4 of this chapter was caused under circumstances also creating a legal liability for damages on the part of any party other than the employer, whether or not ~~such the~~ party is subject to ~~the provisions of~~ this chapter, the employee, or his or her dependents in case of his death, may proceed against the employer to recover compensation under this chapter or may agree with the employer upon the compensation payable under this chapter, and, at the same time, may bring an action against ~~such the~~ other party to recover damages for ~~such the~~ injury or death, and the amount of ~~such the~~ damages shall be ascertained and determined without regard to this chapter. ~~; provided, however, if such~~ If a party, other than the employer, is a workers' compensation insurance carrier of the employer or any person, firm, association, trust, fund, or corporation responsible for servicing and payment of workers' compensation claims for the employer, or any officer, director, agent, ~~servant~~ or employee of ~~such the~~ carrier, person, firm, association, trust, fund, or corporation, or is a labor union, or any official or representative thereof, or is a gov-

ernmental agency providing occupational safety and health services, or an employee of the agency, or is an officer, director, agent, ~~servant~~ or employee of the same employer, or his or her personal representative, the injured employee, or his or her dependents in the case of his death, may bring ~~such~~ an action against any workers' compensation insurance carrier of the employer or any person, firm, association, trust, fund, or corporation responsible for servicing and payment of workers' compensation claims for the employer, ~~or such labor union, or the governmental agency, or such person, or his or her personal representative, only for willful conduct which results in or proximately causes the injury or death. If the injured employee, or in case of his death, his or her dependents, recover damages against such the other party, the amount of such the damages so recovered and collected shall be credited upon the liability of the employer for compensation. , and if such If the damages so recovered and collected should be are in excess of the compensation payable under this chapter, there shall be no further liability on the employer to pay compensation on account of such the injury or death. To the extent of any such the recovery of damages against such the other, the employer shall be entitled to reimbursement for the amount of compensation theretofore paid on account of such injury or death. If the employee who recovers damages is receiving or entitled to receive compensation for permanent total disability, then the employer shall be entitled to reimbursement for the amount of such compensation theretofore paid, and the employer's obligation to pay further compensation for permanent total disability shall be suspended for the number of weeks which equals the quotient of the total damage recovery, (less the amount of any reimbursement for compensation already paid), divided by the amount of the weekly benefit for permanent total disability which the employee was receiving or to which the employee was entitled. For purposes of this act, the employer shall be entitled to subrogation for medical and vocational benefits expended on behalf of the employee.~~

"(b) If personal injury or death to any employee results from the willful conduct, as defined in subsection (c) herein, of any officer, director, agent, ~~servant~~ or employee of the same employer or any workers' compensation insurance carrier of the employer or any person, firm, association, trust, fund, or corporation responsible for servicing ~~and any~~ payment of workers' compensation claims for the employer, or any officer, director, agent, ~~servant~~ or employee of ~~such the~~ carrier, person, firm, association, trust, fund, or corporation, or of a labor union, or an official or representative thereof, the employee shall have a cause of action against ~~such the~~ person, workers' compensation carrier, or labor union.

"(c) As used herein, 'willful conduct' means any of the following:

"(1) A purpose or intent or design to injure another; and ~~where~~ if a person, with knowledge of the danger or peril to another consciously pursues a course of conduct with a design, intent, and purpose of inflicting injury, then he or she is guilty of 'willful conduct.'

"(2) The willful and intentional removal from a machine of a safety guard or safety device provided by the manufacturer of the machine with knowledge that injury or death would likely or probably result from ~~such the~~ removal; provided, however, that removal of ~~such a~~ guard or device shall not be willful conduct unless ~~such the~~ removal did, in fact, increase the danger ~~of in the~~ use of the machine and was not done for the purpose of repair ~~of the~~ machine or was not part of an improvement or modification of the machine which rendered the safety device unnecessary or ineffective; ~~or.~~

"(3) The intoxication of another employee of the employer ~~when~~ if the conduct of that employee has wrongfully and proximately caused injury or death to the plaintiff or plaintiff's decedent, but no employee shall be guilty of willful conduct on account of the intoxication of ~~any other another~~ employee or ~~other another~~ person; ~~or.~~

"(4) Willful and intentional violation of a specific written safety rule of the employer after written notice to the violating employee by another employee who, within six months after the date of receipt of ~~such the~~ written notice, suffers injury resulting in death or permanent total disability as a proximate result of ~~said the~~ willful and intentional violation. Said The written notice to the violating employee must state with specificity all of the following:

"a. The identity of the violating employee; ~~.~~

"b. The specific written safety rule being violated and the manner of the violation; ~~.~~

"c. That the violating employee has repeatedly and continually violated the specific written safety rule referred to in b above with specific reference to previous times, dates, and circumstances; ~~.~~

"d. That ~~such the~~ violation places the notifying employee at risk of great injury or death.

"A notice that does not contain all of the above elements will not be valid notice for purposes of this section. An employee shall not be liable for ~~such the~~ willful conduct if the injured employee himself or herself violated a safety rule, or otherwise contributed to his or her own

injury, ~~and no~~ No employee shall be held liable under this ~~paragraph~~ section for the violation of any safety rule by any other employee or for failing to prevent any violation by any other employee.

"(d) In the event the injured employee, or his or her dependents, in case of his death, ~~his dependents~~ do not file a civil action against such the other party to recover damages within the time allowed by law, the employer or the insurance carrier for the employer shall be allowed an additional period of six months within which to bring a civil action against ~~such the other party~~ for damages on account of ~~such the injury or death~~. In the event the employer or the insurance carrier ~~shall have~~ has paid compensation to ~~such the employee or his or her dependents~~ dependent, or in the event a proceeding is pending against the employer to require the payment of ~~such the compensation~~, ~~such the civil action~~ may be maintained either in the name of the injured employee or, in the name of his or her dependent in case of his death, ~~in the name of his dependents~~, or in the name of the employer or the insurance carrier. ~~and in~~ In the event the damages recovered in such the civil action are in excess of the compensation payable by the employer under this chapter and costs, attorney's fees, and reasonable expenses incurred by the employer in making ~~such the~~ collection, the excess of ~~such the~~ amount shall be held in trust for the injured employee or, in case of his death, for his the employee's dependents. ~~In the event If such the injured employee has no dependents dependent, his the personal representative,~~ in the event of his death, may bring a civil action against ~~such the~~ other party to recover damages without regard to this chapter.

"(e) In ~~any a~~ settlement made under this section with a third party by the employee or, in ~~the~~ case of his death, by his or her dependents, the employer shall be liable for that part of the attorney's fees incurred in the settlement with the third party, ~~either~~ with or without a civil action, in the same proportion that the amount of the reduction in the employer's liability to pay compensation bears to the total recovery had from ~~such the~~ third party.

"(f) For the purpose of this section, ~~any a~~ carrier, person, firm, association, trust, fund, or corporation ~~shall include any~~ includes a company or a governmental agency making a safety inspection on behalf of ~~any a~~ self-insured employer or its employees and ~~any an~~ officer, director, agent, ~~servant~~ or employee of ~~such the~~ company or a governmental agency.

Section 9. Section 25-5-50, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 3.
"ELECTIVE COMPENSATION UNDER CONTRACT
"OF EMPLOYMENT.

"§25-5-50.

"This article and Article 2 of this chapter shall not be construed or held to apply to ~~domestic servants, to farm laborers~~ an employer of a domestic employee; an employer of a farm laborer; whose employers have not filed an election to become subject to this chapter or to persons an employee of a person whose employment at the time of the injury is casual and not in the usual course of the trade, business, profession, or occupation of the employer; ~~or to any an~~ an employer who regularly employs less than three employees in any one business, other than the business of constructing or assisting on-site in the construction of single-families, detached residential dwellings or to any a municipality having a population of less than 2,000 according to the most recent federal decennial census. ~~Any An individual employer, as defined in section 25-5-1 hereof, any~~ Any An individual employer, as defined in section 25-5-1 hereof, any employer who regularly employs less than three employees in any one business; ~~any farmer, a farm-labor employer; an employer of a domestic employee; or any a~~ any a municipality having a population of less than 2,000 according to the most recent federal decennial census, may accept and become subject to ~~the provisions of this article and Article 2 4 of this chapter by filing written notice thereof with the Department of Industrial Relations, a copy thereof to be posted at the place of business of said the employer; provided further, that any an employer who has so elected to accept the provisions of this article and Article 2 4 of this chapter may at any time withdraw the acceptance by giving like notice of withdrawal.~~

"Notwithstanding the foregoing paragraph, ~~any an~~ an officer of a corporation may elect annually to be exempt from coverage by filing written certification of ~~such the~~ such the election with the department of industrial relations and ~~his the~~ the employer's insurance carrier.

"A At the end of any calendar year, a corporate officer who has been exempted, himself by proper certification from coverage, may at the end of any calendar year revoke such the exemption and thereby accept coverage by filing written certification of his or her election to be covered with the department of industrial relations and his the employer's insurance carrier.

"The certification for exemption or reinstatement of coverage shall become effective on the first day of the calendar month following the filing of the certification of exemption or reinstatement of coverage with

the department of industrial relations.

"In the event that If the corporate officer election occurs elects to be exempt from coverage, such the election shall not relieve the employer from continuing coverage for all other eligible employees who may have been covered prior to the election or who may subsequently be employed by the firm.

"This section shall provide for voluntary coverage of volunteer fire departments and legally organized rescue squads that meet the minimum personnel and equipment standards as established by the Alabama Association of Rescue Squads, and members thereof who are engaged in fighting a fire or performing other duties involving any emergency incident and while performing any official supervised duties of the organization, including maintaining equipment and attending official training classes, and while traveling to and from an emergency incident.

"In all cases where an injury that is compensable under the terms of the Alabama workers' compensation law is received by a volunteer fire fighter or rescue squad member, the wages for purposes of computing the average weekly wage shall be equal to 66 2/3 percent of what he or she is earning at his or her regular place of employment or 66 2/3 percent of the minimum wage, whichever is greater.

"In no event shall the regular employer of a volunteer fire fighter or rescue squad member be liable for a compensable injury under this section."

Section 10. Section 25-5-51, Code of Alabama 1975, is amended to read as follows:

"§25-5-51.

"~~When~~ If an employer is subject to this article, compensation, according to the schedules hereinafter contained, shall be paid by every such the employer, or those conducting the business during bankruptcy or insolvency, in every case of personal injury or death of his or her employee caused by an accident arising out of and in the course of his or her employment, without regard to any question of negligence; except, that. Notwithstanding the foregoing, no compensation shall be allowed for an injury or death caused by the willful misconduct of the employee, or by the employee's intention to bring about the injury or death of himself or herself or of another, or due to his own intoxication or his or her willful failure or willful refusal to use safety appliances provided by the employer or by an accident due to the injured employee

being intoxicated from the use of alcohol or being impaired by illegal drugs.

"A positive drug test conducted and evaluated pursuant to standards adopted for drug testing by the U.S. Department of Transportation in 49 C.F.R. part 40 shall be a conclusive presumption of impairment resulting from the use of illegal drugs. No compensation shall be allowed if the employee refuses to submit to or cooperate with a blood or urine test as set forth above after the accident or occupational disease after being warned in writing by the employer that such refusal would forfeit the employee's right to recover benefits under this chapter.

"No compensation shall be allowed if at the time of or in the course of entering into employment or at the time of receiving notice of the removal of conditions from a conditional offer of employment the employee knowingly and falsely misrepresents in writing his or her physical or mental condition and said condition is aggravated or reinjured in an accident arising out of and in the course of his or her employment.

"At the time an employer makes an unconditional offer of employment or removes conditions previously placed on a conditional offer of employment, the employer shall provide the employee with the following written warning in bold type print, 'Misrepresentations as to preexisting physical or mental conditions may void your workers' compensation benefits.' If the employer defends on the ground that the injury arose in any or all of the last above-stated ways, the burden of proof shall be on the employer to establish ~~such~~ the defense."

Section 11. Section 25-5-52, Code of Alabama 1975, is amended to read as follows:

"§25-5-52.

"No Except as provided in this chapter, no employee of any employer subject to this article chapter, nor the personal representative, surviving spouse, or next of kin of ~~any such the~~ employee shall have ~~any~~ a right to any other method, form, or amount of compensation or damages for ~~any an~~ injury or death occasioned by ~~any an~~ accident or occupational disease proximately resulting from and while engaged in the actual performance of the duties of his or her employment and from a cause originating in such employment or determination thereof ~~other than as provided in this article.~~"

Section 12. Section 25-5-53, Code of Alabama 1975, is amended to read as follows:

"§25-5-53.

~~"The rights and remedies herein granted in this chapter to an employee shall exclude all other rights and remedies of said the employee, his or her personal representative, parent, dependents dependent, or next of kin, at common law, by statute, or otherwise on account of said injury, loss of services, or death. Except as provided in this article and article 2, as the case may be, of this chapter, no employer included within the terms of this chapter shall be held civilly liable for any personal injury to or death of any workman who is an employee of the employer and the employer's employee, for purposes of this chapter, whose injury or death is due to an accident or to an occupational disease while engaged in the service or business of the employer, the cause of which accident or occupational disease originates in the employment. In addition, immunity from civil liability for all such causes of action except those based upon willful conduct shall also extend to any workers' the workers' compensation insurance carrier of the employer; or any to a person, firm, association, trust, fund, or corporation responsible for servicing and payment of workers' compensation claims for the employer; or any to an officer, director, agent, servant or employee of such the carrier, person, firm, association, trust, fund, or corporation; and to any a labor union, or any an official, or representative thereof; to a governmental agency providing occupational safety and health services, or an employee of the agency, and to any an officer, director, agent, servant or employee of the same employer, or his or her personal representative. Nothing in this section shall be construed to relieve any a person from criminal prosecution for failure or neglect to perform any a duty imposed by law.~~

"For the purpose of this section, ~~any~~ a carrier, person, firm, association, trust, fund, or corporation shall include ~~any~~ a company or a governmental agency making a safety inspection on behalf of ~~any~~ a self-insured employer or its employees and ~~any~~ an officer, director, agent, servant or employee of ~~such the~~ company or a governmental agency."

Section 13. Section 25-5-54, Code of Alabama 1975, is amended to read as follows:

"§25-5-54.

~~"All contracts of employment made on or after January 1, 1920, shall be presumed to have been made with reference to and subject to the provisions of this article. All contracts of employment made prior to, and existing on, January 1, 1920, shall be presumed to continue from~~

~~and after January 1, 1920, subject to and under the provisions of this article.~~ Every employer and employee, except as otherwise specifically provided in this article, shall be presumed to have accepted and come under this article and Article 4 of this chapter and the provisions thereof relating to the payment and acceptance of compensation."

Section 14. Section 25-5-55, Code of Alabama 1975, is amended to read as follows:

"§25-5-55.

~~"Minors shall, for~~ For the purposes of this article and Article 4 of this chapter, minors shall have the same power to contract, make settlements and receive compensation as adult employees, subject to the power of the court, in its discretion, ~~at any time~~ to require the appointment of a guardian to make ~~such~~ the settlement and to receive moneys thereunder or under an award. Payments of awards made to ~~such~~ minors or their guardians shall exclude any further compensation either to the minors or to their parents for loss of services or otherwise."

Section 15. Section 25-5-56, Code of Alabama 1975, is amended to read as follows:

"§25-5-56.

"The interested parties shall have the right to settle all matters of ~~compensation~~ benefits, whether involving compensation, medical payments, or rehabilitation, and all questions arising under this article and Article 4 of this chapter between themselves, and every settlement made under this article shall be in amount the same as the amounts or benefits stipulated in this article. No settlement for an amount less than the amounts or benefits stipulated in this article shall be valid for any purpose, unless a judge of the circuit court of the county where the claim for compensation under this chapter is entitled to be made, or upon the written consent of the parties, a judge of the circuit court of any county determines that it is for the best interest of the employee or ~~his~~ the employee's dependents dependent to accept a lesser sum and approves ~~such~~ the settlement. The court shall not approve any ~~such~~ settlement unless and until it has first made inquiry into the bona fides of a claimant's claim and the liability of the defendant; and if deemed advisable, the court may hold a hearing thereon. ~~Any settlements Settlements made hereunder~~ may be vacated for fraud, undue influence, or coercion, upon application made to the judge approving the settlement at any time not later than six months after the date of settlement. Upon ~~such~~ settlements being approved, judgment shall be entered thereon and

duly entered on the records of ~~said the~~ court in the same manner and have the same effect as other judgments or as an award if the settlement is not for a lump sum. ~~The costs of the proceedings shall not exceed \$2.00 and shall be borne by the employer. Such proceeding shall not be deemed subject to state trial, library or other taxes, general or local.~~ All moneys voluntarily paid by the employer or insurance carrier to an injured employee in advance of agreement or award shall be treated as advance payments on account of the compensation. In order to encourage advance payments, it is expressly provided that ~~such the~~ payments shall not be construed as an admission of liability but shall be without prejudice."

Section 16. Section 25-5-57, Code of Alabama 1975, is amended to read as follows:

"§25-5-57.

"(a) Compensation schedule. Following is the schedule of compensation:

"(1) TEMPORARY TOTAL DISABILITY. For injury producing temporary total disability, the compensation shall be 66 2/3 percent of the average weekly earnings received at the time of injury, subject to a maximum and minimum weekly compensation as stated in Section 25-5-68, but if at the time of injury the employee received average weekly earnings of less than the minimum stated in Section 25-5-68, then he or she shall receive the full amount of ~~such the~~ average weekly earnings per week. This compensation shall be paid during the time of ~~such the~~ disability, but at ~~such the~~ time as a temporary total disability shall become permanent, compensation for the continued total disability shall be governed by ~~the provisions of~~ (a)(4) of this section with respect to permanent total disability. Payments are to be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree.

"(2) TEMPORARY PARTIAL DISABILITY.

"a. Amount and Duration of Compensation. ~~In all cases of~~ For temporary partial disability, the compensation shall be 66 2/3 percent of the difference between the average weekly earnings of the ~~workman~~ worker at the time of the injury and the average weekly earnings he or she is able to earn in his or her partially disabled condition. This compensation shall be paid during the period of ~~such the~~ disability, but not, ~~however,~~ beyond 300 weeks. Payments shall be made at the intervals when the earnings were payable, as nearly as may be, unless the parties

otherwise agree, and shall be subject to the same maximum weekly compensation as stated in Section 25-5-68.

"b. Effect of Change in Employment. If the injured employee who is receiving ~~such~~ compensation for temporary partial disability ~~should leave~~ leaves the employment of the employer by whom he or she was employed at the time of the accident for which ~~such the~~ compensation is being paid, he or she shall, upon securing employment elsewhere, give to ~~such the~~ former employer an affidavit in writing containing the name of his or her new employer, the place of employment, and the amount of wages being received at ~~such the~~ new employment, and until he or she gives ~~such the~~ affidavit, the compensation for temporary partial disability shall cease. The employer for whom ~~such the~~ employee was employed at the time of the accident for which ~~such the~~ compensation is being paid may also at any time demand of ~~such the~~ employee an additional affidavit, in writing, containing the name of his or her employer, the place of his or her employment, and the amount of wages he or she is receiving; and, if the employee upon ~~such~~ demand fails or refuses to make and furnish ~~such the~~ affidavit, his or her right to compensation for temporary partial disability shall cease until ~~such the~~ affidavit is made and furnished.

"(3) PERMANENT PARTIAL DISABILITY.

"a. Amount and Duration of Compensation. For permanent partial disability, the compensation shall be based upon the extent of ~~such the~~ disability. In cases included in the following schedule, the compensation shall be 66 2/3 percent of the average weekly earnings, during the number of weeks set out in the following schedule-;

"1. For the loss of a thumb, 62 weeks.

"2. For the loss of a first finger, commonly called the index finger, 43 weeks.

"3. For the loss of a second finger, 31 weeks.

"4. For the loss of a third finger, 22 weeks.

"5. For the loss of a fourth finger, commonly called the little finger, 16 weeks.

"6. The loss of the first phalange of the thumb or of any finger shall be considered as equal to the loss of one half of ~~such the~~ thumb or finger, and compensation shall be paid at the prescribed rate during one

half of the time specified above for ~~such~~ the thumb or finger.

"7. The loss of two or more phalanges shall be considered as the loss of the entire finger or thumb, but in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

"8. For the loss of a great toe, 32 weeks.

"9. For the loss of any of the toes other than the great toe, 11 weeks.

"10. The loss of the first phalange of any toe shall be considered to be equal to the loss of one half of ~~such~~ the toe, and compensation shall be paid at the prescribed rate during one half the time prescribed above for ~~such~~ the toe.

"11. The loss of two or more phalanges shall be considered as the loss of an entire toe.

"12. For the loss of a hand, 170 weeks.

"13. For the loss of an arm, 222 weeks.

"14. For the loss of a foot, 139 weeks.

"15. Amputation between the elbow and wrist shall be considered as the equivalent to the loss of a hand, and amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot.

"16. For the loss of a leg, 200 weeks.

"17. For the loss of an eye, 124 weeks.

"18. For the complete and permanent loss of hearing in both ears, 163 weeks.

"19. For the complete and permanent loss of hearing in one ear, 53 weeks.

"20. For the loss of an eye and a leg, 350 weeks.

"21. For the loss of an eye and one arm, 350 weeks.

"22. For the loss of an eye and a hand, 325 weeks.

"23. For the loss of an eye and a foot, 300 weeks.

"24. For the loss of two arms, other than at the shoulder, 400 weeks.

"25. For the loss of two hands, 400 weeks.

"26. For the loss of two legs, 400 weeks.

"27. For the loss of two feet, 400 weeks.

"28. For the loss of one arm and the other hand, 400 weeks.

"29. For the loss of one hand and one foot, 400 weeks.

"30. For the loss of one leg and the other foot, 400 weeks.

"31. For the loss of one hand and one leg, 400 weeks.

"32. For the loss of one arm and one foot, 400 weeks.

"33. For the loss of one arm and one leg, 400 weeks.

"34. For serious disfigurement, not resulting from the loss of a member or other injury specifically compensated, materially affecting the employability of the injured person in the employment in which he or she was injured or other employment for which he or she is then qualified, 66 2/3 percent of the average weekly earnings for such the period as the court may determine, but not exceeding 100 weeks.

"b. Successive or Concurrent Temporary Total and Permanent Partial Disabilities Resulting from Same Injury. When a permanent partial disability, the number of weeks compensation for which is scheduled in subdivision (a)(3) of this section, follows or accompanies a period of temporary total disability resulting from the same injury, the number of weeks of such the temporary total disability shall not be deducted from the number of weeks payable for such the permanent partial disability.

"c. Concurrent Disabilities. ~~Where~~ If an employee sustains concurrent injuries resulting in concurrent disabilities, he or she shall receive compensation only for the injury which entitled him or her to the largest amount of compensation, but this paragraph shall not affect liability for the concurrent loss of more than one member for which members compensation is provided in the specific schedule.

"d. Loss of Use of Member. ~~In all cases, the~~ The permanent and total loss of the use of a member shall be considered as equivalent to the loss of that member, but in such cases the compensation ~~in and by said specified in the~~ schedule for such injury shall be in lieu of all other compensation, except as otherwise provided herein. ~~In case of~~ For permanent disability due to injury to a member resulting in less than total loss of use of ~~such the~~ member not otherwise compensated in this schedule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss or total loss of use of the respective member which the extent of the injury to the member bears to its total loss.

"e. Effect of Refusal of Suitable Employment. If an injured employee refuses employment suitable to his or her capacity offered to or procured for him or her, he or she shall not be entitled to any compensation at any time during the continuance of ~~such the~~ refusal, unless at any time, in the opinion of the judge of the circuit court of the county of his or her residence, ~~such the~~ refusal is justifiable.

"f. Maximum and Minimum Compensation Awards. ~~All compensation~~ Compensation provided in this subsection (a) for loss of members or loss of use of members is subject to the same limitations as to maximum and minimum weekly compensation as stated in Section 25-5-68.

"g. Compensation for Permanent Partial Disabilities Not Enumerated. ~~In For~~ all other ~~cases of~~ permanent partial disability disabilities not above enumerated, the compensation shall be 66 2/3 percent of the difference between the average weekly earnings of the ~~workman~~ worker at the time of the injury and the average weekly earnings he or she is able to earn in his or her partially disabled condition, subject to the same maximum weekly compensation as stated in Section 25-5-68. In making this evaluation, the court shall consider only the medical restriction, if any, imposed by the treating physician under Section 25-5-77, as well as, all available reasonable accommodations that would enable the employee in his or her condition following the accident or onset of occupational disease to perform jobs that he or she in that condition otherwise would be unable to perform, and shall treat an employee able to perform with such accommodation as though he or she could perform without the accommodation. ~~When~~ If a permanent partial disability, compensation for which is not calculated by use of the schedule in subdivision (a)(3) of this section, follows a period of temporary total disability resulting from the same injury, the number of weeks of ~~such the~~ temporary total disability shall be deducted from the number of weeks payable for ~~such the~~ permanent partial disability. Compensation

tion shall continue during disability, but not, ~~however,~~ beyond 300 weeks.

"h. Affidavit of New Employment. ~~In case~~ If the injured employee leaves the services of the employer for whom he or she was working at the time of the accident and accepts employment elsewhere, he or she shall make and furnish affidavit as to his or her new employment in the manner as required in ~~subdivision~~ subsection (a)(2) of this section.

"i. If, on or after the date of maximum medical improvement, except for scheduled injuries as provided in Section 25-5-57(a)(3), an injured worker returns to work at a wage equal to or greater than the worker's pre-injury wage, the worker's permanent partial disability rating shall be equal to his or her physical impairment and the court shall not consider any evidence of vocational disability. Notwithstanding the foregoing, within a period of time not to exceed 300 weeks from the date of injury, if the employee establishes that he or she lost his or her employment permanently through no fault of his or her own, the employee may petition within two years thereof for a hearing before the court and the court may consider at that time evidence as to the earnings the employee is or may be able to earn in his or her partially disabled condition. In making this evaluation, the court shall consider only the medical restriction, if any, imposed by the treating physician under Section 25-5-77, as well as, all available reasonable accommodations that would enable the employee in his or her condition following the accident or onset of occupational disease to perform jobs that he or she in that condition otherwise would be unable to perform, and shall treat an employee able to perform with such accommodation as though he or she could perform without the accommodation.

"(4) PERMANENT TOTAL DISABILITY.

"a. Amount, Duration, and Payment of Compensation. For permanent total disability, as defined in paragraph d of this subdivision, the employee shall receive $66 \frac{2}{3}$ percent of the average weekly earnings received at the time of the injury, subject to a maximum and minimum weekly compensation as stated in Section 25-5-68; ~~provided, that,~~ Notwithstanding the foregoing, if at the time of injury the employee was receiving earnings of less than the minimum as stated in Section 25-5-68, then he or she shall receive the full amount of his or her earnings per week. This compensation shall be paid during such the permanent total disability, as defined in said paragraph d of this subdivision. Payment of ~~such~~ the compensation shall be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree. ~~Such~~ The payments, with the approval of the circuit

judge or by the agreement of the parties, may be made monthly, quarterly, or otherwise as the parties may agree. Payments for permanent total disability shall not be ordered to be paid in a lump sum without the consent of both the employer and the employee.

"b. Alteration, Amendment, or Revision of Compensation. At any time, the employer may petition the circuit court ~~which~~ that awarded or approved compensation for permanent total disability to alter, amend, or revise the award or approval of ~~such~~ the compensation on the ground that as a result of physical or vocational rehabilitation, or otherwise, the disability from which the employee suffers is no longer a permanent total disability and, if the court is so satisfied after a hearing, it shall alter, amend, or revise the award accordingly. If compensation for permanent total disability is being paid pursuant to a written agreement between employer and employee without ~~court~~ approval, the employer may make application to a circuit court that would have had jurisdiction to award ~~such~~ the compensation to the employee to alter, amend, or revise the agreement on such grounds. If an employee is receiving benefits for permanent total disability other than as a result of an award or a written agreement between the employer and employee and if the employer terminates the payment of ~~such~~ the benefits, the employee may, within two years of the last payment, petition the court to reinstate ~~such~~ the benefits and, upon a showing that ~~such~~ the permanent total disability still exists, shall be entitled to have ~~such~~ the benefits reinstated effective the date of the last payment.

"c. Employees in Public Institutions. In case an employee, who is permanently and totally disabled, becomes an inmate of a public institution, ~~then~~ no compensation shall be payable unless ~~he has~~ the employee has wholly dependent on him or her for support a person or persons named in Sections 25-5-61 and 25-5-62, whose dependency shall be determined as if the employee were deceased, in which case the compensation provided for in this subdivision shall be paid for the benefit of ~~such~~ the person so dependent, during dependency, in the manner ~~so ordered~~ by the court, while the employee is an inmate in ~~such the institution; provided, however, that nothing.~~ Nothing contained herein shall be construed to deprive a permanently and totally disabled employee who has no ~~dependents~~ dependent named in Sections 25-5-61 and 25-5-62 from receiving benefits to which he or she would otherwise be entitled if ~~said~~ said the employee, although an inmate of a public institution, is paying or on whose behalf funds are paid from any source to ~~said the~~ said the public institution the normal and customary charge for the services rendered by ~~said the~~ said the public institution. Normal and customary charge shall mean that charge actually made by the public institution to

persons able to pay for the services rendered them whether said charge actually covers the expense of the upkeep of said the inmate or not. ~~In the event said~~ If the employee has had a guardian appointed by a court of competent jurisdiction, ~~said workmen's the workers'~~ compensation payments shall be directly paid to said the guardian.

"d. Definition. The total and permanent loss of the sight of both eyes or the loss of both arms at the shoulder or any physical injury or mental impairment resulting from an accident, which injury or impairment permanently and totally incapacitates the employee from working at and being retrained for gainful employment, shall constitute prima facie evidence of permanent total disability and but shall not constitute the sole basis on which an award of permanent total disability may be based; provided, that any employee whose disability results from such the injury or impairment and who shall have refused to undergo physical or vocational rehabilitation, or to accept reasonable accommodation shall not be deemed permanently and totally disabled.

"e. Second Permanent Injuries Generally. If an employee has a permanent disability or has previously sustained another injury than that in which ~~he the employee~~ received a subsequent permanent injury by accident, ~~such as is specified in the provisions of this section defining permanent injury, he the employee~~ shall be entitled to compensation only for the degree of injury that would have resulted from the latter accident if the earlier disability or injury had not existed.

~~"f. Second Permanent Injury Resulting in Permanent Total Disability Where First Injury Not in Same Employment. If an employee receives a permanent injury as specified in this section after having sustained another permanent injury other than in the same employment, and if the combined effect of the previous and subsequent injury results in permanent total disability, compensation shall be payable for permanent total disability. Compensation for such permanent total disability shall be paid by the employer to the extent that such employer would have to pay compensation for the degree of injury that would have resulted from the accident if the earlier disability or injury had not existed, and the remainder of the amount of such compensation after the completion of such payments by the employer shall be paid by the director of industrial relations as trustee from any amounts from time to time standing to his account as such trustee in the second injury trust fund; provided, that in order to qualify for benefits from the second injury trust fund, the employer must have had prior knowledge of the previous injury of the employee, and such previous injury must have been of a disabling nature which adversely affected the employability of the employee.~~

"g f. Second Permanent Injury in Same Employment Resulting in Permanent Total Disability. If an employee receives a permanent injury as specified in this section after having sustained another permanent injury in the same employment, and if the previous and subsequent injuries result in permanent total disability, compensation shall be payable for permanent total disability only.

"h g. Concurrent Compensation Payments. If an employee received an injury for which compensation is payable while he or she is still receiving or entitled to receive compensation for a previous injury in the same employment, he or she shall not at the same time be entitled to compensation for both injuries, unless the later injury is a permanent injury, such as specified in this section, but he or she shall be entitled to compensation for that injury and from the time of that injury which will cover the longest period and the largest amount payable under this article and Article 2 4 of this chapter.

"If an employee receives a permanent injury as specified in this section, after having sustained another permanent injury in the same employment, he or she shall be entitled to compensation for both injuries, subject to the provisions of paragraph e of this subdivision, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation, and in no case for permanent partial disability exceeding 700 weeks.

"i h. Effect of Rehabilitation or Recovery on Permanent Total Disability Benefits. ~~In the event~~ If an employee who is receiving benefits for permanent total disability shall, as a result of physical or vocational rehabilitation or otherwise, obtain gainful employment, the obligation to pay permanent total disability benefits shall thereupon terminate; provided, that at any time that the employee's weekly wage from such the employment shall be less than the employee's average weekly wage at the time of injury, the employer shall remain obligated to pay to the employee as compensation an amount equal to 66 2/3 percent of the difference, subject to each of the following limitations:

"1. The employer's liability for the payment of 66 2/3 percent of such the difference shall continue for 200 weeks from the date of reemployment or 300 weeks from the date of injury, whichever is the longer period;.

"2. In no event shall the amount of weekly benefits paid by the employer to the employee exceed the weekly benefit the employee was receiving for permanent total disability; and.

"3. No payments shall be due for any week the employee earns as much as or more than his or her average weekly wage at the time of injury. If the employee who obtains gainful employment suffered a permanent partial disability as specified in subsection (c), paragraph 1, of this section, the total amount of compensation paid for permanent total disability shall not be less than that amount which would have been payable for ~~such~~ the permanent partial disability.

"j i. Affidavit of Gainful Employment. ~~In the event~~ If an employee who is receiving benefits for permanent total disability shall, as the result of physical or vocational rehabilitation, accommodation, or otherwise, obtain gainful employment with an employer other than with his or her former employer, he or she shall, upon securing such employment, give to his or her former employer an affidavit in writing containing the name of his or her new employer, the place of employment and the amount of wages being received at ~~such~~ the new employment; and, until he or she gives ~~such~~ the affidavit, the compensation for permanent total disability shall cease. The employer for whom ~~such~~ the employee was employed at the time of the accident for which compensation is being paid may also at any time demand of ~~such~~ the employee additional affidavit, in writing, containing the name of his or her employer, the place of his or her employment, and the amount of wages he or she is receiving; and, if the employee, upon ~~such~~ demand, fails or refuses to make and furnish ~~such~~ the affidavit, his or her rights to compensation shall cease until ~~such~~ the affidavit is made and furnished.

"(5) DEATH FOLLOWING DISABILITY. ~~In case a workman sustained~~ If an employee sustains an injury occasioned by an accident arising out of and in the course of his or her employment and, during the period of disability caused thereby, death results proximately therefrom, all payments previously made as compensation for ~~such~~ the injury shall be deducted from the compensation, if any, due on account of death. If ~~a workman~~ an employee who ~~has sustained~~ sustains a permanent partial or permanent total disability, the degree of which has been agreed upon by the parties or has been ascertained by the court, and death results not proximately therefrom, the employee's surviving spouse ~~and/or~~ or dependent children or both shall be entitled to the balance of the payments which would have been due and payable to the ~~workman~~ worker, whether or not the decedent employee was receiving compensation for permanent total disability, not exceeding, however, the amount that would have been due the surviving spouse ~~and/or~~ or dependent children or both if death had resulted proximately ~~from the injury~~. ~~Except as provided in this subdivision, no benefits shall be payable on account of death resulting, proximately or not proximately,~~

from an injury on account of which compensation is being paid to an employee.

"(6) HERNIA.

"a. Proof. ~~In all claims for compensation for~~ For hernia resulting from injury by an accident arising out of and in the course of ~~his~~ the employee's employment, it must be definitely proven to the satisfaction of the court all of the following:

- "1. That there was an injury resulting in hernia₇.
- "2. That the hernia appeared suddenly₇.
- "3. That it was accompanied by pain₇.
- "4. That the hernia immediately followed an accident₇ and₇.

"5. That the hernia did not exist prior to the accident for which compensation is claimed.

"b. Treatment. All hernia, inguinal, femoral, or otherwise, ~~so~~ proved to be the result of an injury by accident arising out of and in the course of the employment, shall be treated in a surgical manner by radical operation. ~~In case~~ If the injured employee refuses to undergo the radical operation for the cure of ~~said~~ the hernia, no compensation will be allowed during the time ~~such~~ the refusal continues. If, however, it is shown that the employee has some chronic disease or is otherwise in ~~such~~ physical condition that the court considers it unsafe for the employee to undergo ~~said~~ the operation, the employee shall be paid as otherwise provided in this chapter.

"(b) Computation of compensation; determination of average weekly earnings.-- Compensation under this section shall be computed on the basis of the average weekly earnings. Average weekly earnings shall ~~mean the earnings~~ be based on the wages, as defined in Section 25-5-1(6) of the injured employee in the employment in which he or she was working at the time of the injury during the period of 52 weeks immediately preceding the date of the injury divided by 52, but if the injured employee lost more than seven consecutive calendar days during ~~such~~ the period, although not in the same week, then the earnings for the remainder of ~~such~~ the period, although not in the same week, then the earnings for the remainder of ~~such~~ the 52 weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. Where the employment prior to the injury extended over a period of less

than 52 weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, provided results just and fair to both parties will thereby be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of his or her employer or the casual nature or terms of the employment it is impracticable to compute the average weekly earnings as above defined, regard shall be had to the average weekly amount which during the 52 weeks prior to the injury was being earned by a person in the same grade, employed at the same work by the same employer, and if there is no such person so employed, by a person in the same grade employed in the same class of employment in the same district. Whatever allowances of any character made to an employee in lieu of wages are specified as part of the wage contract shall be deemed a part of his or her earnings.

"(c) Setoff for Other Recovery. In calculating the amount of workers' compensation due:

"(1) The employer may reduce or accept an assignment from an employee of the amount of benefits paid pursuant to a disability plan, retirement plan, or other plan providing for sick pay by the amount of compensation paid, if and only if the employer provided the benefits or paid for the plan or plans providing the benefits deducted.

"(2) The employee shall forfeit to the employer all compensation paid for any period to which is attributed any award of back pay either by a court, administrative agency, arbitration, or settlement.

"(3) If an employer continues the salary of an injured employee during the benefit period or pays similar compensation during the benefit period, it shall be allowed a setoff in weeks against the compensation owed under this article. For the purposes of this section, voluntary contributions to a Section 125-cafeteria plan for a disability or sick pay program shall not be considered as being provided by the employer."

Section 17. Section 25-5-58, Code of Alabama 1975, is amended to read as follows:

"§25-5-58.

"If the degree or duration of disability resulting from an accident is increased or prolonged because of a preexisting injury or infirmity, then without regard to whether the preexisting injury combined with the compensable accident produces the current disability and regardless of whether it affected pre-accident ability to work, the employer shall be

liable only for the disability that would have resulted from the accident had the earlier injury or infirmity not existed."

Section 18. Section 25-5-59, Code of Alabama 1975, is amended to read as follows:

"§25-5-59.

~~"(a) In cases of temporary total or temporary partial disability, no compensation shall be allowed for the first three days after disability, except as provided by section 25-5-77, nor~~ For purposes of this article, except for scheduled injuries as provided in Section 25-5-57(a)(3), compensation for the first three days of disability shall not be payable, nor shall compensation be paid in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in Section 25-5-78.

~~"(b) Compensation shall begin with the fourth day after disability, and, in the event if the disability from the injury exists for a period as much as 21 days, compensation for the first three days after the injury shall be added to and payable with the first installment due the employee after the expiration of the 21 days. If any installment of compensation payable is not paid without good cause within 30 days after it becomes due, there shall be added to such the unpaid installment an amount equal to 10 15 percent thereof, which shall be paid at the same time as, but in addition to, such the installment."~~

Section 19. Section 25-5-60, Code of Alabama 1975, is amended to read as follows:

"§25-5-60.

"In death cases, where the death results proximately from the accident within three years, compensation payable to dependents shall be computed on the following basis and shall be paid to the persons entitled thereto without administration, or to a guardian or ~~such~~ other person as the court may direct, for the use and benefit of the person entitled thereto.

"(1) PERSONS ENTITLED TO BENEFITS; AMOUNT OF BENEFITS.

"a. If the deceased employee leaves one dependent, there shall be paid to the dependent 50 percent of the average weekly earnings of the deceased.

"b. If the deceased employee leaves two or more dependents, there shall be paid to the dependents $66 \frac{2}{3}$ percent of the average weekly earnings of the deceased.

"c. If one of two or more dependents is a widow or widower, the compensation may be paid to the widow or widower for the benefit of herself or himself and the dependent child or children. In its discretion and when it considers appropriate to do so, the court shall at any time have the power to determine, without the appointment of any guardian or guardians, what portion of the compensation shall be applied for the benefit of any ~~such~~ child or children and may order the same paid to a guardian or custodian of ~~such~~ the child or children.

"d. Partial dependents shall be entitled to receive only that proportion of the benefits provided for total dependents which the average amount of the earnings regularly contributed by the deceased employee to ~~such~~ the partial dependent, at and for a reasonable time immediately prior to the injury, bore to the total income of the dependent during the same time. If there is one dependent and one or more partial dependents and the dependent is not entitled to the maximum amount of compensation provided in Section 25-5-68, there shall be paid to the partial dependent or partial dependents that percentage of the benefit paid to a full dependent which the contribution of the decedent to the partial dependent's support bears to the total income of the partial dependent; provided, that the compensation payable to ~~such~~ the partial dependent or dependents shall not exceed the lesser of $16 \frac{2}{3}$ percent of the decedent's average weekly wage or the difference between the compensation payable to the full dependent and the maximum weekly compensation benefit payable as provided in Section 25-5-68.

"e. If compensation is being paid under this article to any dependent, ~~such~~ the compensation shall cease upon the death or marriage of ~~such~~ the dependent, unless otherwise provided in this article.

"f. Upon the cessation of compensation to or for any dependent, for any cause, the compensation of the remaining dependents entitled to compensation shall, for the unexpired period during which their compensation is payable, be that which would have been payable to them had they been the only persons entitled to compensation at the time of death of the deceased employee.

"g. If, however, the deceased employee at the time of his or her death has no dependents as herein defined, then within 60 days of his or her death, the employer shall pay a one-time lump sum payment of seven thousand five hundred dollars (\$7,500) to the deceased worker's estate.

"(2) MAXIMUM AND MINIMUM COMPENSATION AWARDS. -- The compensation payable in case of death to persons wholly dependent shall be subject to a maximum and minimum weekly compensation as stated in Section 25-5-68, but if at the time of injury the employee receives earnings of less than the minimum stated in Section 25-5-68, then the compensation shall be the full amount of such earnings per week. The compensation payable to partial dependents shall be subject to a maximum and minimum weekly compensation as stated in Section 25-5-68, but if the income loss of ~~said~~ the partial dependents by ~~such~~ the death is less than the minimum weekly compensation stated in Section 25-5-68, then the dependents shall receive the full amount of their income loss. This compensation shall be paid during dependency, not exceeding 500 weeks. Payments shall be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree."

Section 20. Section 25-5-66, Code of Alabama 1975, is amended to read as follows:

"§25-5-66.

"In case of the remarriage of a widow of an employee who has another dependent children, the unpaid balance of compensation, which would otherwise become due her, shall be paid to ~~such children~~ the dependent or may, on approval by the court, be paid to some suitable person designated by the court for the use and benefit of ~~such children~~ the dependent. Payment to ~~such~~ that person shall discharge the employer from any further liability."

Section 21. Section 25-5-67, Code of Alabama 1975, is amended to read as follows:

"§25-5-67.

~~"In all cases where~~ If death results to an employee ~~caused by as the result of an accident or an occupational disease arising out of and in the course of his the employee's employment,~~ the employer shall pay, in addition to the medical and hospital expenses provided for in Section 25-5-77, the expenses of burial, not exceeding in amount \$1,000.00 three thousand dollars (\$3,000). ~~In case~~ If a dispute arises as to the reasonable value of the services rendered in connection with the burial, the same shall be approved by the court before payment after ~~such~~ reasonable notice to interested parties as the court may require."

Section 22. Section 25-5-68, Code of Alabama 1975, is amended to read as follows:

"§25-5-68.

~~"(a) With respect to injury or death resulting from an accident occurring before February 1, 1985, the compensation paid under this article shall be not less than, except as otherwise provided in this article, 25 percent of the average weekly wage of the state as determined by the director of industrial relations (rounded to the nearest dollar) pursuant to subsection (c) of this section and, in any event, no more than 66 2/3 percent of such average weekly wage of the state.~~

~~"(b) (a) With respect to injury or death resulting from an accident occurring on or after February 1, 1985, the The compensation paid under this article shall be not less than, except as otherwise provided in this article, 27 1/2 percent of the average weekly wage of the state as determined by the director of industrial relations (, rounded to the nearest dollar), pursuant to subsection (c) (b) of this section and, in any event, no more than 100 percent of such the average weekly wage, except that. Notwithstanding the foregoing, the maximum compensation payable for permanent partial disability shall be no more than the lesser of \$220.00 two hundred twenty dollars (\$220) per week or 100 percent of such the average weekly wage.~~

~~"(c) (b) For the purpose of this section, the average weekly wage of the state shall be determined by the director of industrial relations as follows: On or before June 1 of each year, the total wages reported on contribution reports to the unemployment compensation division of the department of industrial relations for the preceding calendar year shall be divided by the average monthly number of insured workers (, which shall be determined by dividing the sum of the number of insured workers reported for each month of the preceding year by 12). The average annual wage thus obtained shall be divided by 52, and the average weekly wage thus determined rounded to the nearest cent. The average weekly wage as so determined shall be applicable for the 12-month period beginning July 1 following the June 1 determination. If such the determination shall not be made on or before June 1, the effective date of the average weekly wage when determined shall be the first day of the month next following 30 days after such the determination is made.~~

~~"(d) (c) The maximum and minimum weekly benefit shall not be changed on any July 1 or as a result of any annual determination, unless the computation provided for in subsection (e) (b) of this section results in an increase or decrease of \$2.00 two dollars (\$2) or more in the amount of either the maximum or minimum benefit.~~

~~"(e) (d) In no event, except as provided for permanent total dis-~~

ability in subdivision (a)(4) of Section 25-5-57 or except for compensation benefits payable for permanent partial and temporary total disability in connection with a disability scheduled in subdivisions (1) and (3) of subsection (a) of Section 25-5-57, shall the total amount of compensation payable for ~~any~~ an accident or an occupational disease exceed the product of 500 times the maximum weekly benefit applicable on the date of the accident.

~~"(d)~~ (c) The minimum and maximum benefits that are in effect on the date of the accident which results in injury or death shall be applicable for the full period during which compensation is payable."

Section 23. Section 25-5-77, Code of Alabama 1975, is amended to read as follows:

"§25-5-77.

"(a) In addition to the compensation provided in this article and Article 4 of this chapter, the employer, where applicable, shall pay the actual cost of the repair, refitting, or replacement of artificial members damaged as the result of an accident arising out of and in the course of employment, and the employer, except as otherwise provided in this act, shall pay an amount not to exceed the actual cost prevailing rate of reimbursement or payment of reasonably necessary medical and surgical treatment and attention, physical rehabilitation, medicine, medical and surgical supplies, crutches, artificial members, and other apparatus as the result of an accident arising out of and in the course of employment, as may be obtained by the injured employee or, in case of death, obtained during the period occurring between the time of the injury and his the employee's death therefrom. If the employee is dissatisfied with the initial treating physician selected by the employer and if further treatment is required, the employee may so advise the employer, and in such event the employee shall be entitled to select a second physician from a panel or list of four physicians selected by the employer. In the event If surgery is required, and if the employee is dissatisfied with the designated surgeon, he or she may so advise the employer, and in such event the employee shall be entitled to select a second surgeon from a panel or list of four surgeons selected by the employer. If four physicians or surgeons are not available to be listed, the employer shall include on the list as many as are available. The four physicians or surgeons selected by the employer hereunder shall not be from or members of the same firm, partnership, or professional corporation. The total liability of the employer shall, unless otherwise provided in this act, be limited to such charges as prevail for similar treatment in the community where the injured employee resides not exceed the prevailing

rate of reimbursement or payment for similar treatment in the district where the employee receives services. Any requested prevailing rate of reimbursement or payment to reflect the administrative burden unique to the treatment of workers' compensation patients shall be appropriately coded as such on existing CPT-4 codes for consideration of reimbursement or payment. Notwithstanding the foregoing, in ascertaining the prevailing rate of reimbursement or payment with regard to participating hospitals and ambulatory surgical centers or outpatient rehabilitation facilities and diagnostic facilities licensed by the State of Alabama, the prevailing rate shall be negotiated by the director or by an independent firm selected by the director with each individual hospital, ambulatory surgical center, or licensed outpatient rehabilitation facility based on that institution's expenditure for diagnosis and treatment of comparable type cases for the 12-month period immediately preceding the effective date of this act. These rates will be updated every 12 months thereafter. Initial rates shall be established within six months of the effective date of this act. For those non-participating hospitals the prevailing rate shall be determined by a committee. In the first year following the effective date of this act, the committee shall be composed of five members. The director shall appoint one member from the Department of Industrial Relations and two members from the community where the non-participating hospital is located. The non-participating hospital shall appoint two members. This committee shall by a majority vote establish the maximum rates of reimbursement or payment for the non-participating hospital, and the hospital shall be bound for one year by said determined rates of reimbursement or payment for workers' compensation cases. If following the first year after the rates were established by this committee, the hospital is again non-participating, then another committee shall be appointed. This committee shall have three members selected by the non-participating hospital and two members selected by the director. The committee composition shall alternate as above described each year the hospital is non-participating. The total liability of the employer shall not exceed the rates established by the committee. This committee in determining the rates of reimbursement or payments to the hospital may consider such factors as the hospital's size, staffing, medical equipment, and any other factors which the committee may consider relevant. ~~In case~~ If an insurer of the employee or a benefit association has paid or is liable for ~~such~~ the employee's medical, surgical, and hospital service or for a part thereof, or ~~in case~~ if the employee is entitled to the same or a part thereof, from any source whatever by virtue of any agreement or understanding or law, state or federal, without any loss of benefit to the employee, the employer shall not be required ~~in such case~~ to pay any part of ~~such~~ the expense, ~~unless said;~~ If the benefits are insufficient to pay all ~~such~~ the employee's expense, and ~~in such event~~ the employer shall be liable for

the deficiency only. All cases of dispute as to the necessity and value of such the services shall be determined by the tribunal having jurisdiction of the claim of the injured employee for compensation.

"(b) ~~The~~ If requested to do so by the employer, the injured employee must shall submit himself to examination by the employer's physician at all reasonable times, if requested to do so by the employer, but the employee shall have the right to have a physician of his or her own selection present at such the examination, in which case the employee shall be liable to such the physician of his or her own selection for his or her services. The employer shall pay for the services of the physician making the examination at the instance of the employer. ~~And in case of~~ If a dispute arises as to the injury, or as to the extent of the disability therefrom, the court may, at the instance of either party or of its own motion, appoint a neutral physician of good standing and ability to make an examination of the injured ~~person~~ employee and to report his or her findings to the court, the expense of which examination shall be borne equally by the parties. If the injured employee refuses to comply with ~~any~~ reasonable request for examination, or refuses to accept the medical service or physical rehabilitation, which the employer elects to furnish under ~~the provisions of this chapter,~~ his the employee's right to compensation shall be suspended and no compensation shall be payable for the period of such the refusal. ~~Any A~~ Any A physician whose services are furnished or paid for by the employer, or ~~any a~~ any a physician of the injured employee who treats or makes or is present at any examination of ~~any an~~ injured employee may be required to testify as to any knowledge obtained by him or her in the course of such the treatment or examination as same the treatment or examination related to the injury or the disability arising therefrom. ~~Any such The~~ Any such The physician shall, upon written request of the injured employee or his or her employer and without consent of or notice to the employee or employer not making such the request, furnish ~~such the~~ the injured employee or his or her employer a written statement of his or her professional opinion as to the extent of the injury and disability. In all death claims where the cause of death is obscure or is disputed, any interested party may require an autopsy, the cost of which is to be borne by the party demanding the same autopsy. The term 'physicians' shall include medical doctor, surgeon, and chiropractor. ~~Any A~~ Any A hospital, medical clinic, rehabilitation service, or other person or entity providing treatment to an employee or providing facilities at which the employee receives treatment shall, upon the written request of the employee or of the employer, furnish, at a reasonable cost, the employee or the employer a copy of the records, including X-rays and laboratory reports, relating to such the treatment of the injured employee. ~~Such The~~ Such The copy may be furnished without the consent of or notice to the employee or employer not making such the request.

~~Any~~ A physician, hospital, medical clinic, rehabilitation service, or other person or entity providing ~~any~~ written statement of professional opinion or copies of records pursuant to this subsection shall not be liable to any person for ~~any~~ a claim arising out of the release of medical information concerning the employee.

"(c) If the employer so elects, the employee shall submit to and undergo vocational rehabilitation at the employer's expense through a vocational rehabilitation ~~facility or institution recommended by a vocational rehabilitation specialist, which facility or institution~~ specialist, who shall be qualified to render competent vocational rehabilitation service. If an employee who is unable in the opinion of the treating physician to return to his or her former employment shall request vocational rehabilitation and if both a vocational rehabilitation specialist and a treating physician, the cost of whose service is the obligation of the employer under this section, shall express their opinions in writing that in the judgment of each of them vocational rehabilitation is reasonably calculated to restore the employee to gainful employment and is in the best interest of the employee, the cost of ~~such~~ the rehabilitation shall be borne by the employer. ~~Such~~ The cost, where rehabilitation requires residence at or near a facility or institution away from the employee's customary residence, shall include reasonable charges for the employee's necessary board, lodging, and travel.

~~"(d) Refusal of the employee to accept rehabilitation at the employer's request shall result in loss of compensation for each week of the period of refusal.~~

"(d) If an employee refuses, without the consent of the court, to accept vocational rehabilitation at the employer's request, the refusal shall result in loss of compensation for the period of refusal.

"(e) All disputes with regard to vocational rehabilitation may be submitted to the court for resolution.

"(f) The employer shall pay mileage costs to and from medical and rehabilitation providers at the same rate as provided by law for official state travel.

"(g) In a compensable workers' compensation claim, the injured employee shall not be liable for payment of any authorized and compensable medical expenses associated with the workers' compensation claim.

"(h) All undisputed medical reimbursements or payments shall be made within 25 working days of receipt of claims in the form prescribed

and approved by the director. There shall be added to any invoice which is not paid within 25 working days an amount equal to 10 percent of the unpaid balance."

Section 24. (a) Any party, including a health care provider, is entitled to a review by a Workers' Compensation Specialist of medical services that are provided or for which authorization of payment is sought if any party or the health care provider has any of the following:

(1) Been denied payment or had the charge reduced for medical services rendered.

(2) Been denied authorization for the payment of services requested or performed when authorization is required by the medical policies of the director.

(3) Been ordered by the director to refund payments received for the provision of medical services.

(b) A party to a medical dispute that remains unresolved after a review of medical services as provided by this section may petition the circuit court for relief.

Section 25. Section 25-5-78, Code of Alabama 1975, is amended to read as follows:

"§25-5-78.

"Every For purposes of this article only, an injured employee or ~~his~~ the employee's representative ~~shall~~, within five days after the occurrence of an accident, ~~shall~~ give or cause to be given to the employer written notice of the accident, and ~~the employee, if he fails to give such notice,~~ if the notice is not given, the employee or the employee's dependent shall not be entitled to physician's or medical fees nor any compensation which may have accrued under the terms of this article ~~and article 2 of this chapter~~, unless it can be shown that the party required to give ~~such~~ the notice had been prevented from doing so by reason of physical or mental incapacity, other than minority, fraud or deceit, or equal good reason, but no compensation shall be payable unless ~~such~~ the written notice is given within 90 days after the occurrence of the accident or, ~~where~~ if death results, within 90 days after the death."

Section 26. Section 25-5-80, Code of Alabama 1975, is amended to read as follows:

"§25-5-80.

"In case of a personal injury, not involving cumulative physical stress, all claims for compensation under this article and article 2 of this chapter shall be forever barred unless within two years after the accident the parties shall have agreed upon the compensation payable under this article and article 2 of this chapter or unless within two years after the accident one of the parties shall have filed a verified complaint as provided in section 25-5-88. In cases involving personal injury due to cumulative physical stress, compensation under this article shall be forever barred unless within six months after the date of the injury one of the parties shall have filed a verified complaint as provided in Section 25-5-88. In cases involving claims for lost earning capacity under Section 25-5-57(a)(3)i. that do not involve personal injury due to physical stress, following termination of employment as outlined therein, compensation under this article and Article 4 shall be forever barred unless brought within two years of the termination. In case of death, all claims for compensation shall be forever barred unless within two years after death, when the death results proximately from the accident within three years, the parties shall have agreed upon the compensation under this article and article 2 of this chapter, or unless within two years after such the death one of the parties shall have filed a verified complaint as provided in section Section 25-5-88. Where, however, payments of compensation as distinguished from medical or vocational payments have been made in any case, said limitations shall not take effect begin to run until the expiration of two years from the time of making the last payment. In case of physical or mental incapacity, other than the minority of the injured person or his or her dependents, to perform or cause to be performed any act required within the time in this section specified, the period of limitation in any such case shall be extended to become effective two years from the date when such the incapacity ceases."

Section 27. Section 25-5-81, Code of Alabama 1975, is amended to read as follows:

"§25-5-81.

"(a) Commencement of action in circuit court.

"(1) PROCEDURE. -- In case of a dispute between employer and employee or between the dependents of a deceased employee and his employer with respect to the right to compensation under this article and article 2 of this chapter, or the amount thereof, either party may submit the controversy to the circuit court of the county which would have jurisdiction of a civil action in tort between the same parties. Such con-

troversty shall be heard and determined by such judge or judges of said court as would hear and determine a civil action between the same parties arising out of tort, and, in case there is more than one judge of such court, such controversies shall be set and assigned for hearing under the same rules and statutes that civil actions in tort are set and assigned. Such court may hear and determine such controversies in a summary manner. The decision of the judge hearing the same shall be conclusive and binding between the parties, subject to the right of appeal provided for in this article.

"(2) STANDARD OF PROOF. -- The decision of the court shall be based on a preponderance of the evidence as contained in the record of the hearing, except in cases involving injuries which have resulted from gradual deterioration or cumulative physical stress disorders, which shall be deemed compensable only upon a finding of clear and convincing proof that those injuries arose out of and in the course of the employee's employment. For purposes of this section, clear and convincing shall mean evidence that, when weighed against evidence in opposition, will produce in the mind of the trier of fact a firm conviction as to each essential element of the claim and a high probability as to the correctness of the conclusion. Proof by clear and convincing evidence requires a level of proof greater than a preponderance of the evidence or the substantial weight of the evidence, but less than beyond a reasonable doubt.

"(2) (3) RIGHT TO JURY TRIAL. -- When wilful misconduct on the part of the employee is set up by the employer, ~~as it is provided for in this article,~~ the employer may, upon appearing, demand a jury to hear and determine, under the direction of the court, the issues involved in this defense. If the employer fails to demand a jury ~~upon appearing,~~ the employee may demand a jury to try ~~such the~~ issues by filing ~~his~~ a demand within five days after the appearance of the employer. When a jury is demanded by either party, the court must submit the issues of fact as to ~~wilful~~ willful misconduct set up by the employer to the jury, for a special finding of the facts subject to the usual powers of the court over verdicts rendered contrary to the evidence or the law, but the judge must determine all other questions involved in the controversy without a jury. Upon setting up ~~such that~~ defense, the employer must serve a copy of the answer, setting up the defense, upon the employee or his or her attorney of record.

"(b) Court deemed open at all times. -- For the purpose of hearing and determining controversies between an employer and employee or the dependents of a deceased employee and the employer, arising under this article and ~~article~~ Article 2 of this chapter, the circuit court shall be deemed always in session.

"(c) Interpleader of adverse claimants to compensation. - - If at any time there are adverse claimants to compensation under this article, the employer, in submitting said the claim to said the circuit court, may suggest in writing said the claimants, and they shall be required to interplead. Said The court shall determine and order to which claimant or claimants such compensation is justly due, and said the employer, upon complying with the order of such judge, shall be released from the claims of any other claimants thereto.

"(d) Review. -- From such an order or judgment, any aggrieved party may, within 42 days thereafter, appeal to the court of civil appeals Court of Civil Appeals and such the review shall be as in cases reviewed by certiorari. follows:

"(1) In reviewing the standard of proof as set forth herein and other legal issues, review by the Court of Civil Appeals shall be without a presumption of the correctness of the ruling below.

"(2) In reviewing pure findings of fact, the finding of the circuit court shall not be reversed if that finding is supported by substantial evidence."

"(e) The following procedure shall govern the litigation of an action under this chapter:

"(1) Except as set forth in subdivisions (2) and (3), and absent a showing of unusual circumstances, discovery in all actions brought under this chapter shall be limited to four depositions for each side, a total of 25 paper part written discovery requests, including requests for admission, requests for production, and interrogatories.

"(2) Notwithstanding the limitations in (1) above, each party shall have the right to take the deposition of every other party.

"(3) Certified sealed copies of records of medical treatment and charges therefor, whether from a physician, hospital, clinic, or other provider, shall be admitted into evidence in accordance with Alabama Rules of Civil Procedure, Rule 44(h), without further need for authenticating testimony. Copies of records obtained by one party shall be furnished by certified mail to the other party not less than 14 days prior to trial, unless the party offering the records can establish unusual circumstances justifying their admission despite the failure to make the exchange.

"(4) Except as set forth above, the Alabama Rules of Civil

Procedure shall govern all actions under this chapter."

Section 28. Section 25-5-83, Code of Alabama 1975, is amended to read as follows:

"§25-5-83.

"By agreement of the parties and with approval of the court, the amounts of compensation payable periodically, under this article and Article 4 of this chapter, may be commuted to one or more lump sum payments. No ~~such~~ commutation shall be approved by the court unless the court is satisfied that it is in the best interest of the employee or the employee's ~~dependents~~ dependent, in case of death, to receive the compensation in a lump sum rather than in periodic payments. In making ~~such~~ the commutations, the lump sum payment shall, in the aggregate, amount to a sum equal to the present value of all future installments of compensation calculated on a six percent basis."

Section 29. Section 25-5-85, Code of Alabama 1975, is amended to read as follows:

"§25-5-85.

"At any time after the amount of ~~any~~ an award has been agreed upon by the parties or found and ordered by the court, a sum equal to the present value of all future installments of compensation calculated on a six percent basis may, where death or the nature of the injury renders the amount of future payments certain, by leave of court, be paid by the employer to ~~any savings~~ a bank or trust company of this state or ~~any~~ a national bank doing business in this state to be approved and designated by the court, and ~~such~~ the sum, together with all interest thereon, shall thereafter be held in trust for the employee or ~~dependents~~ dependent of the employee, who shall have no further recourse against the employer. The payment of ~~such~~ the sum by the employer, evidenced by the receipts in duplicate of the trustees, one of which shall be filed with the probate judge of the county in which the injury or death occurred and the other filed with the clerk of the circuit court, shall operate as a satisfaction of ~~said~~ the award as to the employer, and the trustee designated by the court shall be allowed to pay itself from ~~said~~ the fund a reasonable compensation for acting as ~~such~~ the trustee, which compensation shall be fixed by the court in the order making ~~such~~ the designation. Payments from ~~said~~ the fund shall be made by the trustee in the same amounts and at the same time as are required in this article of the employer until ~~said~~ the fund, after deducting the trustee's compensation as above provided, and interest shall be exhausted. In the appointment of the trustee, pref-

erence shall be given, in the discretion of the court, to the choice of the injured employee or the ~~dependents~~ dependent of the deceased employee ~~as the case may be~~. ~~In the event~~ If the right to receive compensation should terminate on account of death, becoming of age, or marriage, or for any other cause as provided in this article, the balance remaining in ~~said the~~ bank or trust company after ~~such the~~ termination should be returned by them to the employer, his or her successor, or assigns."

Section 30. Section 25-5-86, Code of Alabama 1975, is amended to read as follows:

"§25-5-86.

"For purposes of this article and Article 4 of this chapter:

"(a) (1) In all cases in which If the award, order, or judgment settlement agreement is payable in installments and default has been made in the payment of any an installment, the owner or interested party may, upon the expiration of 30 days from said the default and upon five days' notice to the defaulting employer or defendant, move for a modification of the judgment award or award settlement agreement by ascertaining the cash or present value of same the case, including the 15 percent penalty provision of Section 25-5-59, under the rule of computation contained in Section 25-5-85, and upon which execution may issue; unless however, the defaulting employer enters may relieve itself of the execution by entering into a good and sufficient bond, to be approved by the circuit judge, securing the payment of all future installments, and forthwith pays all past due installments with interest and penalty thereon since due. Said The bond shall be recorded upon the minutes of the circuit court.

"(b) (2) Claims for compensation, or awards, or judgments, or agreements to pay compensation owned by an injured employee or his or her dependents dependent shall not be assignable and shall be exempt from seizure or sale or garnishment for the payment of any debt or liability. There shall be no right to waive this exemption."

Section 31. Section 25-5-90, Code of Alabama 1975, is amended to read as follows:

"§25-5-90.

"No Unless otherwise provided in this chapter, no part of the compensation payable under this article and Article 4 of this chapter shall be paid to attorneys an attorney for the plaintiff for legal services,

unless, upon the application of the plaintiff to a judge of the circuit court, ~~such~~ the judge shall order or approve of the employment of an attorney by the plaintiff; and in such event, the judge, upon the hearing of the complaint for compensation, either by law or by settlement, shall fix the fee of the attorney for the plaintiff for his or her legal services and the manner of its payment, but ~~such~~ the fee shall not exceed 15 percent of the compensation awarded or paid."

Section 32. (a) It is the intent of the Legislature to promote safety education, safety planning, and to provide any needed technical assistance.

(b) The director shall coordinate with the Safe State Program, the safety and health consulting service, to establish a safety program for cooperating with industry to promote safety and provide technical assistance. Emphasis shall be placed on unsafe acts in small industry and high risk industry.

(c) Qualified safety management specialists shall be employed in the Safe State Program to assist employers in developing or improving their safety programs. Safe State Program personnel shall, upon referral by the director of an employer's request, make inspections for safety monitoring and report the resulting findings and recommendations to the employer and to the director.

(d) The Safe State Program shall establish and collect reasonable fees for technical and consultative safety services, that are not required by law, provided to persons requesting the services from or through the Workers' Compensation Division of the Department of Industrial Relations.

Section 33. Section 25-5-110, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 4.
"COMPENSATION FOR OCCUPATIONAL
DISEASES GENERALLY.

"§25-5-110.

"For the purposes of this article, the following terms shall have the meanings respectively ascribed to them by this section:

"(1) OCCUPATIONAL DISEASE. A disease arising out of and in the course of employment, ~~other than~~ including occupational pneumo-

coniosis and occupational exposure to radiation as defined in ~~articles 5 and 7, respectively, of this chapter~~ subsections 2 and 3, respectively, of this section, which is due to hazards in excess of those ordinarily incident to employment in general and is peculiar to the occupation in which the employee is engaged but without regard to negligence or fault, if any, of the employer. A disease, (including, but not limited to, loss of hearing due to noise), shall be deemed an occupational disease only if caused by a hazard recognized as peculiar to a particular trade, process, occupation, or employment as a direct result of exposure, over a period of time, to the normal working conditions of such the trade, process, occupation, or employment. ~~The term "occupational disease" shall not include accidents within the meaning of articles 3, 5 and 7 of this chapter.~~

"(2) OCCUPATIONAL PNEUMOCONIOSIS. A disease of the lungs caused by inhalation of minute particles of dust over a period of time, which dust is due to causes and conditions arising out of and in the course of the employment, without regard to whether the causes or conditions are inherent in the employment or can be eliminated or reduced by due care on the part of the employer. The term 'occupational pneumoconiosis' shall include, but without limitation, such diseases as silicosis, siderosis, anthracosis, anthrasilicosis, anthracosilicosis, anthraco-tuberculosis, tuberculosilicosis, silico-tuberculosis, aluminosis, and other diseases of the lungs resulting from causes enumerated in this section.

"(3) OCCUPATIONAL EXPOSURE TO RADIATION. Gradual exposure to radiation over a period of time from the use of or direct contact with radium, radioactive substances, roentgen rays (X-rays), or ionizing radiation, arising out of and in the course of the employment and resulting from the nature of the employment in which the employee is engaged, without regard to whether or not the exposure is inherent in the employment or can be eliminated or reduced by due care on the part of the employer.

"(4) NATURE OF EMPLOYMENT. With respect to subdivisions (2) and (3) above, this term shall mean that, as to the industry in which the employee is engaged, there is attached a particular hazard of the exposure that distinguishes it from the usual run of occupations and is in excess of the hazards of the exposure attending employment in general.

"(5) CONTRACTION OF AN OCCUPATIONAL DISEASE. ~~Such~~ This term shall include any aggravation of ~~such~~ the disease without regard to the employment in which the disease was contracted."

Section 34. Section 25-5-116, Code of Alabama 1975, is amended to read as follows:

"§25-5-116.

~~"Where compensation is payable under this article the only employer liable, if any, shall be the employer in whose employment the employee was last exposed to the hazards of said disease. The employer who is liable shall not be entitled to contribution from any other employer of such employee.~~

"If compensation is payable for pneumoconiosis, radiation, or any other occupational disease, the only employer liable, if any, shall be the employer in whose employment the employee was last exposed in each of at least 12 months, within a period of five years prior to the date of the injury, to the hazards of the disease and, in addition, any employer who furnished workers' compensation coverage during this period."

Section 35. Section 25-5-117, Code of Alabama 1975, is amended to read as follows:

"§25-5-117.

"(a) In case of the contraction of an occupational disease, as defined in this article, or of injury or disability resulting therefrom, all claims a claim for compensation, as defined in Section 25-5-1, shall be forever barred, unless within one year two years after the date of the injury, as hereinafter defined, the parties shall have agreed upon the compensation payable under this article, or unless within one year two years after the date of the injury, one of the parties shall have filed a verified complaint as provided in Section 25-5-88. In case of death, all claims for compensation the claim shall be forever barred, unless within two years after the death, if death results proximately from the occupational disease, as defined in this article, and occurs within three years of the date of the injury, as hereinafter defined, and unless within one year after such death the parties shall have agreed upon the compensation under this article, or unless within one year two years after such death, one of the parties shall have filed a verified complaint as provided in Section 25-5-88. Notwithstanding the foregoing, if upon the date of the death of the employee, the employee's claim is barred, any claim by or for his or her dependent shall likewise be barred. Where If, however, payments of compensation have been made in any case, said the limitations as to compensation shall not take effect until the expiration of one year two years from the time of making the last payment. In case of physical or mental incapacity, other than the minority of the injured

employee, or his or her ~~dependents~~ dependent, to perform or cause to be performed any act required within the time in ~~this section~~ specified in this section, the period of limitation in any ~~such~~ case shall be extended to become effective ~~one year~~ two years from the date when ~~such the~~ incapacity ceases. No agreement, express or implied, to shorten or to extend ~~said the~~ limitations shall be valid or binding on either of the parties ~~when said if the~~ employment, at the time of ~~said the~~ exposure, is or was subject to ~~the provisions of~~ this article. ~~The date of the injury shall mean, for all purposes of this article, the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease.~~

"(b) For the purposes of occupational diseases other than pneumoconiosis or radiation, 'the date of the injury' shall mean the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease.

"(c) For purposes of pneumoconiosis and radiation, 'the date of the injury' shall mean the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease in each of at least 12 months, within a period of five years prior to the date of the injury."

Section 36. Section 25-5-120, Code of Alabama 1975, is amended to read as follows:

"§25-5-120.

"There shall be no not be a presumption that disablement or death from any cause or infirmity is the result of an occupational disease, nor that an occupational disease will result in disablement or death, and any person claiming compensation or other benefits under this article shall have the burden of establishing that he or she is entitled to such the benefits."

Section 37. Section 25-5-250, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 9.

"ALABAMA WORKMEN'S WORKERS' COMPENSATION
SELF-INSURERS "GUARANTY ASSOCIATION.

"§25-5-250.

REGULAR SESSION
13th Day

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"There is created a nonprofit corporation to be known as the 'Alabama ~~Workmen's Workers~~ Compensation Self-Insurers Guaranty Association, Incorporated,' hereinafter referred to as 'the association.' The purpose of the association shall be to create and fund an insolvency fund to assure payment of ~~workmen's workers~~ compensation claims due from self-insuring employers who are members of the association and who become insolvent. The association shall have those powers granted or permitted nonprofit corporations, as provided in Title 10, as amended. In addition, the corporation shall have the power to borrow funds as necessary to carry out its purposes, and to purchase ~~such~~ insurance and reinsurance as is deemed necessary."

Section 38. Section 25-5-251, Code of Alabama 1975, is amended to read as follows:

"§25-5-251.

"(a) All employers who elect to be self-insurers for ~~workmen's workers~~ compensation as provided in ~~section 25-5-8(b), as amended, Article 1~~, other than self-insurers which are governmental entities, or public utilities, shall be members of the association as a condition of their authority to self-insure. Membership shall be sufficient security for self-insurance.

"(b) Membership in the association shall cease when the employer terminates its self-insurance election. However, terminating members shall be and remain liable for the period of time in which they were members of the association and for any subsequent assessments made for that period.

"(c) Membership in the association may be terminated for ~~non-payment~~ nonpayment of assessments.

"(d) The association shall not issue stock and its members shall not, as such, be liable for its obligations."

Section 39. Section 25-5-254, Code of Alabama 1975, is amended to read as follows:

"§25-5-254.

"(a) To the extent necessary to secure funds for the payment of covered claims and costs of administration, the association may levy annual assessments on members of the association at a rate not to exceed ~~\$15.00~~ fifteen dollars (\$15) per ~~\$1,000.00~~ one thousand dollars

(\$1,000) of security amount established by the department for the respective members. Assessments shall be remitted to and administered by the association as provided in the bylaws. The rate of annual assessments against members of the association may vary by duration of membership so that the cumulative contribution rate of recently admitted members becomes the same as previously admitted members.

"(b) If, at any time, the insolvency fund is not sufficient to make the payments or reimbursements then owing, the association may levy a special assessment on members of the association at a rate not to exceed \$15.00 fifteen dollars (\$15) per \$1,000.00 one thousand dollars (\$1,000) of security amount established by the department for each member, but ~~such~~ any special assessment may not be levied more than once in each calendar year.

"(c) No state funds shall be allocated or paid to the association except those funds which may accrue to the association by or through assignments of rights of an insolvent employer. All monies in the fund shall be held in trust and shall not be money or property of the state or the participants in the association."

Section 40. Section 25-5-255, Code of Alabama 1975, is amended to read as follows:

"§25-5-255.

"Upon receipt of the funds assessed on members, the association may set aside funds for the administration of its affairs, and the balance of the funds shall be deposited to an insolvency fund under the following terms:

"~~(a)~~ (1) The fund is created for the purpose of assuring payment of ~~workmen's~~ workers' compensation claims against members of the association who become insolvent; but only those claims which accrue while the insolvent employer is a member of the association and accrue prior to the determination of insolvency or within 30 days thereafter. The obligation of the fund shall be limited to the obligation of the insolvent employer under the Workmen's Workers' Compensation Act Law, in an amount not to exceed 150 percent of the amount of security as determined by the department as of the last annual financial review. The fund shall have all defenses of and shall be subrogated to all rights of the insolvent employer. The fund shall not be liable for any penalties or interest assessed against the employer.

"~~(b)~~ (2) ~~It shall be the duty of the~~ The department of industrial

~~relations to~~ shall determine insolvency of any self-insurer employers, and to notify the association of its determination. Members and directors of the association are specifically forbidden to be given information on the financial condition of any members except the fact of determination of insolvency.

~~"(c)~~ (3) The director ~~of the department of industrial relations,~~ or his or her representative, ~~will~~ shall at all reasonable times have full and free access to the books and records of the association and may audit the association's financial affairs as he or she deems necessary. Should the director deem the balance in the insolvency fund insufficient to meet projected liabilities, he or she shall inform the board of directors, and after consultation with them, he or she shall set the amount which he or she deems sufficient and the board of directors shall levy assessments as provided herein to secure that amount.

~~"(d)~~ (4) The association shall be subrogated to all rights of any claimant whose claim it pays and shall have a claim against the member employer for all ~~such~~ claims and expenses of administration.

~~"(e)~~ (5) If at any time the insolvency fund is insufficient to pay all claims then owing, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as sufficient funds become available."

Section 41. (a) The director shall establish a Workers' Compensation Specialist Program to assist injured or disabled employees, persons claiming death benefits, employers, and other persons in protecting their rights and obtaining information available under workers' compensation laws.

(b) A workers' compensation specialist shall meet with or otherwise provide information to injured or disabled employees, investigate complaints and communicate with employers, insurance carriers and health care providers on behalf of injured or disabled employees. A workers' compensation specialist shall otherwise assist claimants, employers and other parties to enable them to protect their rights in the workers' compensation system. The director may designate employees as workers' compensation specialists and assign them as he or she deems appropriate.

(c) A workers' compensation specialist shall be a merit system employee, need not be an attorney, but shall demonstrate familiarity with workers' compensation laws. A person employed as a workers' compensation specialist shall be ineligible to handle further cases that require

his or her involvement during his or her employment as a workers' compensation specialist.

(d) A workers' compensation specialist shall not be an advocate for any person. A workers' compensation specialist shall not assist a claimant, employer, or other person in any proceeding beyond the benefit review conference, but may at all times provide appropriate information regarding this act and its rules and regulations.

(e) Each employer shall notify his or her employees of the workers' compensation specialist service in a manner prescribed by the director. The notice shall include the posting of a notice in one or more conspicuous places. The director shall also describe clearly the availability of the workers' compensation specialist on the first report of accident form required by this act. The workers' compensation specialist shall give each employee with a lost-time accident claim written notice of workers' compensation assistance available from the workers' compensation division. The notice shall include a toll-free phone number for employees to reach a workers' compensation specialist.

(f) Workers' compensation specialists shall conduct benefit review conferences when all the parties agree to participate in a conference. A benefit review conference shall be held between the parties involved in a dispute over any claim arising after January 1, 1993. The director shall institute and maintain an education and training program for workers' compensation specialists. The specialists shall be trained in the principles and procedures of dispute mediation and the director may consult or enter into contracts with the federal mediation and conciliation service or other appropriate organizations to accomplish this purpose.

(g) In conducting review conferences, the workers' compensation specialist shall:

(1) Mediate disputes between the parties and assist with the claim consistent with this act and the policies of the department.

(2) Inform all parties of their rights and responsibilities under this act, especially in cases in which either party is not represented by an attorney or other representative.

(3) Ensure that all documents and information relating to the employee's wages, medical condition, and any other information pertinent to the resolution of disputed issues are contained in the claim file at the conference, especially in cases in which the employee is not represented by an attorney or other representative.

(h) A workers' compensation specialist may reschedule a benefit review conference if the specialist determines that available information pertinent to the resolution of disputed issues is not produced at the benefit review conference.

(i) The workers' compensation specialist may not take testimony but may direct questions to an employee, an employer, or a representative of an insurance carrier to supplement or clarify information in a claim file.

(j) The workers' compensation specialist may not make a formal record.

Section 42. A benefit review conference is a nonadversarial, informal dispute resolution proceeding designed to:

(1) Explain, orally and in writing, the rights of the respective parties to a workers' compensation claim and the procedures necessary to protect those rights.

(2) Discuss the facts of the claim, review available information in order to evaluate the claim, and delineate the disputed issues.

(3) Mediate and resolve disputed issues by mutual agreement of the parties in accordance with this act and the policies of the department.

Section 43. (a) A dispute may be resolved either in whole or in part at the benefit review conference. If the conference results in the resolution of some of the disputed issues by mutual agreement or in a settlement, the workers' compensation specialist shall reduce the agreement or the settlement to writing. The workers' compensation specialist and each party or the designated representative of the party shall sign the agreement or settlement. A settlement reached hereunder shall, unless otherwise provided herein, be effective on the date the settlement is signed unless one of the parties submits the settlement to the circuit court for approval as provided in this chapter.

(b) An agreement signed pursuant to this section shall be binding on all parties through the final conclusion of all matters relating to the claim, unless within 30 days after the agreement is signed or approved by the court on a finding of fraud, newly discovered evidence, or other good cause, shall relieve all parties of the effect of the agreement.

(c) If the dispute is entirely resolved at the benefit review conference, the workers' compensation specialist shall prepare a written

report that includes:

- (1) A statement of each resolved issue.
- (2) The specialist's recommendations regarding the payment or denial of benefits.
- (3) A statement with regard to an award of attorney fees for the claimant's attorney which shall be in accordance with the amount as provided by Section 25-5-90.
- (4) No permission of the circuit court is required by an attorney to represent any party before a workers' compensation specialist.
- (d) If there is a dispute as to which of two or more insurance carriers is liable for compensation for one or more compensable injuries, the workers' compensation specialist may issue an interlocutory order directing each insurance carrier to pay a proportionate share of benefits due pending a final decision on liability. The proportionate share shall be determined by dividing the compensation due by the number of insurance carriers involved.
- (e) On final determination of liability, any insurance carrier that has been determined not to be liable for the payment of benefits is entitled to reimbursement from the share paid by the insurance carrier that has been determined to be liable.
- (f) The workers' compensation specialist shall file the signed agreement and the report with the Workers' Compensation Division of the Department of Industrial Relations.

Section 44. (a) The director shall adopt rules as necessary for the implementation and enforcement of this act. The director may prescribe rules and regulations for the purpose of conducting continuing education seminars for all personnel associated with workers' compensation claims and to collect registration fees in order to cover the related expenditures. The director may adopt rules and regulations setting continuing education standards for workers' compensation claims personnel employed by insurance companies and self-insured employers and groups.

(b) The director shall file annually with the Governor and the presiding officer of each house of the Legislature a complete and detailed written report accounting for all funds received and disbursed during the preceding fiscal year. The annual report must be in the form and re-

ported in the time provided by law.

(c) The director shall establish reasonable charges to recover expenses for services not required by law or rule provided to persons requesting same from the workers' compensation division.

(d) The director shall appoint advisory committees on workers' compensation matters deemed necessary. However, the director shall appoint a medical advisory committee consisting of five physicians who are licensed to practice medicine in the State of Alabama. The Medical Advisory Committee shall be selected from physicians who are members of the Medical Association of the State of Alabama from a list submitted by the association and from interested physicians who submit their names to the director for consideration. All medical policies with regard to a doctor of medicine or a doctor of osteopathy providing services under this act shall be determined by this medical advisory committee and shall be subject to the requirements and provisions of the Alabama Administrative Procedure Act. The director shall also appoint a hospital advisory committee consisting of three administrators who are members of the Alabama Hospital Association, an advisory committee consisting of three chiropractors who are members in good standing with the Alabama State Chiropractic Association, who shall be selected by the director from nominations submitted by the Alabama State Chiropractic Association, an advisory committee consisting of three pharmacists who are members in good standing with the Alabama Pharmaceutical Association who shall be selected by the director from nominations submitted by the Alabama Pharmaceutical Association, and also an advisory committee consisting of three optometrists who are members in good standing with the Alabama Optometric Association who shall be selected by the director from nominations submitted by the Alabama Optometric Association. These committees shall guide the director and make recommendations to ascertain the prevailing rate of reimbursement or payment of medical costs in the State of Alabama. These committees shall make recommendations with regard to the implementation of all other rules and regulations, including but not limited to, utilization review by like peers. These committees shall also advise and guide the director in determining all other rules and regulations required to accomplish the intent of the Legislature in assuring the quality of medical care and achieving medical cost control.

The director shall also appoint a vocational rehabilitation advisory committee consisting of at least five professional licensed rehabilitation specialists. These rehabilitation specialists shall be selected by the director from nominations from the rehabilitation associations in the state of Alabama, including but not limited to, the Alabama Physical Therapy

Association. The committee shall guide the director and make recommendations to ascertain the prevailing rate of reimbursement or payment of rehabilitation costs in the State of Alabama. The committee shall also make recommendations with regard to the implementation of all other rules and regulations, including but not limited to, utilization review, and with regard to rehabilitation policies as provided by this act. The committee shall also advise and guide the director in determining all other rules and regulations required to accomplish the intent of the Legislature in assuring the quality of rehabilitation care and achieving rehabilitation cost control.

The director shall appoint an advisory committee consisting of attorneys who are members in good standing of the Alabama State Bar. This committee shall guide and assist the director in creating and promulgating rules and regulations for the efficient administration of the Workers' Compensation Specialist Program.

Members of the advisory committees shall receive State of Alabama mileage expense which shall be paid by the Department of Industrial Relations.

(e) It is the intent of the Legislature that final reimbursements related to workers' compensation claims be commensurate and in line with the prevailing rate of reimbursement or payment in the State of Alabama, or as otherwise provided in this act. The director shall conduct field audits as necessary to assist the private sector to gain compliance with the legislative intent. The department shall develop administrative rules to facilitate implementation and continuity of the legislative intent of this act. The director shall not establish the prevailing rate of payment or reimbursement, but may collect data which are construed to be statistically significant as defined by an independent, disinterested consultant. By definition, the prevailing rate of payment or reimbursement is self-defining and self-setting and shall be updated annually. The director shall contract with an independent firm to create a statistically valid data base from which prevailing rates of reimbursement or payment shall be ascertained. Except as otherwise provided herein, the prevailing rate of reimbursement or payment for medical services provided under this act shall be effective 30 days after the prevailed rate of reimbursement or payment is discovered, but in no event sooner than six months from the effective date of this act.

(f) Insurance carriers and self-insurers, individual and group, are required to make appropriate payment for services provided under this act. Unless otherwise provided in this act, an insurance carrier or self-insurer, individual or group, shall not pay more than the applicable

prevailing rate of reimbursement for medical services. Insurance carriers and self-insurers, individual and group, shall have utilization review and medical bill screenings. Utilization review and bill screening shall be performed by qualified individuals or entities to insure the integrity of such services and the quality of cost containment. Further, it is the express legislative intent of this act to ensure that the highest quality health care is available to employees who become injured or ill as the result of employment, at an appropriate rate of provider reimbursement. All insurers, claims adjusters, self-administered employers, and any entity involved in the administration or payment of workers' compensation claims are mandated to implement utilization review and bill screening for health services provided to employees covered under this act. In this regard, employers' liability for reimbursement shall be limited to the prevailing rate for similar treatments in the district where the employee receives services. The State of Alabama shall be divided into a number of appropriate districts as determined by the independent consultant. Further, all services will be reviewed by utilization review for medical necessity and bills for such services screened for appropriateness of charges. Services provided that are deemed not medically necessary are not reimbursable and the employer is held harmless. In no event is the employee responsible or held liable for any charges associated with an authorized workers' compensation claim. To ensure compliance of providers, insurance carriers, and self-insurers, the director may provide by rule for the review and audit of insurance carriers and self-insurers, individual and group, of payments for medical services. The director may maintain a statewide data base from insurance carriers and self-insurers, individual and group, on medical charges, actual payments, treatment patterns, and adjudication methods for use in administering this act.

(g) Health care providers, claims payors, and insurers operating in Alabama shall, at the director's request, provide the director such data as he or she deems necessary to evaluate costs and quality and shall be provided in the form and content to the director's specifications and in a manner deemed timely by the director. The director may gather from health care claims intermediaries that operate in Alabama any claims data related to diagnoses and procedures encountered in the treatment of workers'-compensation-type injury and illness in Alabama. The director shall also gather data from hospitals and other providers of health services relating to quality of care and outcome of treatment. Results from all data gathered shall be made available to employers or their representatives for use in decisions regarding the direction of care or to determine appropriateness of reimbursement.

(h) Beginning immediately and to be completed within six

months, the director may engage an independent firm to identify the initial costs for the program. These initial expenses shall include, but not be limited to, the establishment of a data base to determine prevailing rates, and the conducting of cost analysis for appropriate reimbursement rates to hospitals and other facilities.

(i) A person who serves on any advisory committee for the director is immune from civil liability against any claim arising out of or related to any decision made in good faith, and without malice, and predicated upon information which was then available to the person. Immunity from liability under this section does not apply to a person providing medical treatment to an injured employee.

Section 45. (a) All letters, reports, communications, and other matters, written or oral, from employer or employee to each other, to the director, any of his or her agents, representatives, or employees, or to any official or board functioning under this act, which have been written, sent, delivered, or made in connection with the requirements and administration of this act, shall be absolutely privileged. Information obtained from the above mentioned matters shall be held confidential, except to the extent necessary for the proper presentation of the contest of a claim, and shall not be published or open to public inspection in any manner. Any person violating this section shall be fined not less than twenty dollars (\$20) nor more than two hundred dollars (\$200), or imprisoned for not longer than 30 days, or both.

(b) The director may make summaries, compilations, photographs, duplications, or reproductions of any records as he or she may deem advisable for the effective and economical preservation of the information contained therein. The documentation, duly authenticated, shall be admissible in any proceeding under this act if the original record or records would have been admissible therein.

(c) The director may upon specific request therefor, furnish to any public agency a workers' compensation record in his or her custody, if the agency makes payment of a reasonable cost therefor.

(d) At his or her discretion, the director may release information to institutions of higher education, or a federal government corporation upon payment of a reasonable cost therefor, for the purpose of making economic analyses. The institution or federal government corporation must agree in writing that information so obtained shall not be published or released by it to any person in a manner to permit the identification of any specific individual or employing unit.

(e) The director may afford reasonable cooperation with any agency of the United States or any state agency charged with the administration of any workers' compensation laws.

(f) The director may upon specific request release a workers' compensation record or information therein to any public official or to any law enforcement officer if the release is deemed by the director to be necessary for the performance of the official's or officer's duties and upon payment of a reasonable cost therefor in accordance with any regulations the director may prescribe.

(g) Any person who willfully makes a false statement or representation to obtain any information under this section, either for himself or herself or for any other person, who uses any information for any purpose other than in the performance of his or her official duties, or in any other manner misuses the information, shall be guilty of a misdemeanor and upon conviction, shall be punished by a fine of not less than two hundred dollars (\$200) nor more than one thousand dollars (\$1,000), or by imprisonment for not less than three nor more than 12 months, or by both fine and imprisonment.

Section 46. All laws or parts of laws which conflict with this act and specifically Section 25-5-16, Sections 25-5-70 to 25-5-75, inclusive, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975, are repealed.

Section 47. The term "Alabama Workmen's Compensation Law," as provided for in the Code of Alabama 1975, shall henceforth be known as "Alabama Workers' Compensation Law."

Section 49. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Senator Waggoner offered the following substitute for the deGraffenried substitute for the Bill, SB 122, to-wit:

SUBSTITUTE FOR SUBSTITUTE FOR SB 122

A BILL TO BE ENTITLED AN ACT

To revise the Alabama Workmen's Compensation Law; to amend Articles 1, 2, 3, and 4 of Chapter 5 of Title 25, Code of Alabama 1975;

to repeal Sections 25-5-16, 25-5-70 to 25-5-75, inclusive, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975; to establish discounts and surcharges on workers' compensation insurance rates for small employers depending upon their claims experience; and to provide for various deductibles to be made available on workers' compensation insurance policies.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. It is the intent of the Legislature that the Workers' Compensation Division of the Department of Industrial Relations and the Alabama judicial system shall administer the Alabama Workers' Compensation Law to provide a workers' benefit system to insure the quick and efficient payment of compensation and medical benefits to injured and disabled workers at a reasonable cost to the employers who are subject to the Alabama Workers' Compensation Law. It is the specific intent of the Legislature that workers' compensation benefit claim cases be decided on their merits. The Alabama Workers' Compensation Law is remedial in nature and should be liberally construed to effectuate the intended beneficial purposes. However, even a liberality of construction does not abrogate the measure of proof or sufficiency of evidence.

It is also the intent of the Legislature in adopting this workers' compensation scheme to address difficulties in the current scheme that are producing a debilitating and adverse effect on the state's ability to retain existing industry and attract new industry. The Legislature finds that the current Workmen's Compensation Law of Alabama and other means of compensation or remedy for injury in the workplace has unduly increased cost to employers in the state, driven away jobs, and produced no concomitant benefit. There is a total absence of any reliable evidence that the current act has resulted in fewer injuries on the job, and a considerable body of evidence that any added benefit to the worker is significantly offset by the resulting reduction in job opportunities.

The Legislature has reviewed substantial evidence related to various types of cumulative physical stress disorders, cumulative trauma disorders and certain "natural aging" disorders, including carpal tunnel syndrome, repetitive motion syndrome, and even back and neck infirmities that result from gradual deterioration or the natural process of aging. The Legislature has concluded that it is extremely difficult for the adjudicator of fact to determine whether these disorders are related to work or whether they result from some congenital defect, aging processes, or simply the routine activities of daily living.

These claims also account for a substantial percentage of the workers' compensation claims in this state and are one of the contributing causes of the current workers' compensation crisis facing this state.

It is the finding and expressed intent of the Legislature that the existence of a fair and affordable workers' compensation system within the State of Alabama materially contributes to the economic growth and prosperity of the state and all its citizens. It is the further finding of the Legislature that the provision of quality medical services to employees injured in the workplace at a reasonable and fair cost to employers is an important part of a workers' compensation system. The establishment of a Workers' Compensation Medical Services Board as constituted in this act is considered by the Legislature to be the most appropriate mechanism for insuring that high quality medical services are provided in a cost-effective manner to employees injured in the workplace.

Section 2. Section 25-5-1, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 1.
"GENERAL PROVISIONS.

"§25-5-1.

"Throughout this chapter, the following words and phrases as used therein shall be considered to have the following meanings, respectively, unless the context shall clearly indicate a different meaning in the connection used:

"(1) COMPENSATION. ~~Such term indicates the~~ The money benefits to be paid on account of injury or death, as provided in Articles 3 and 4. Strictly speaking, the benefit The recovery which an employee may receive by action at law under article Article 2 of this chapter is damages, termed 'recovery of civil damages,' and this is indicated as provided for in section Sections 25-5-31 and 25-5-34. To avoid confusion, the word "compensation" has been used in this chapter, but it should be understood that under article 2 the compensation by way of damages is determined by a civil action. Such term 'Compensation' does not include undisputed medical and surgical treatment and attention, medicine, medical and surgical supplies, and crutches and apparatus furnished an employee on account of an injury, except as provided in Section 25-5-11(e).

"(2) CHILD or CHILDREN. ~~Such~~ The terms include post-

humous children and all other children entitled by law to inherit as children of the deceased; stepchildren who were members of the family of the deceased, at the time of the accident, and were dependent upon him or her for support; a grandchild of the deceased employee, whose father is dead or is an invalid, and who was supported by and a member of the family of such the deceased grandparent at the time of the accident.

"(3) **DEPENDENT CHILD or ORPHAN.** An unmarried child under the age of 18 years or one over that age who is physically or mentally incapacitated from earning.

"(4) **EMPLOYER.** Every person ~~not excluded by section 25-5-50~~ who employs another to perform a service for hire and pays wages directly to such the person. Such The term shall include a service company for a self-insurer or any person, corporation, copartnership, or association, or group thereof, and shall, if the employer is insured, include his or her insurer, such the insurer being entitled to the employer's rights, immunities, and remedies under this chapter, as far as applicable, and shall not include one who regularly employs a number less than three in any business; provided, however, that the. The inclusion of an employer's insurer within such the term shall not provide such the insurer with immunity from liability to an injured employee, or his or her dependents dependent in the case of his death to whom the insurer would otherwise be subject to liability under the provision of Section 25-5-11. Notwithstanding any section of articles 2 and 3 the provisions of this chapter, in no event shall a common carrier by motor vehicle operating pursuant to a certificate of public convenience and necessity be deemed the 'employer' of a leased-operator or owner-operator of a motor vehicle or vehicles under contract to such the a common carrier.

~~"(5) **PHYSICIAN.** Such term shall include 'surgeon,' and, in either case, shall mean one authorized by law to practice his profession within one of the United States and in good standing in his profession at the time.~~

~~"(6) (5) **EMPLOYEE, WORKER, WORKMEN and WORKMAN.** EMPLOYEE or WORKER. Such The terms are used interchangeably, and have the same meaning throughout this chapter, and shall be construed to mean the same. Such The terms include the plural and all ages and both sexes. Such The terms include every person ~~not excluded by section 25-5-50,~~ in the service of another under any contract of hire, express or implied, oral or written, including aliens and also including minors who are legally permitted to work under the~~

laws of this state, and also including all employees of Tannehill furnace and foundry commission. Any reference in this chapter to a 'workman' 'worker' or 'employee' shall, ~~where if the workman worker or employee is dead,~~ include his or her ~~dependents~~ dependent, as defined in this chapter, if the context so requires.

~~"(7) (6) WAGES or WEEKLY WAGES. Such~~ The terms shall in all cases, unless the context clearly indicates a different meaning, be construed to mean 'average weekly earnings.' Average weekly earnings shall not include fringe benefits if and only if the employer continues the benefits during the period of time for which compensation is paid. 'Fringe benefits' are those benefits that the employer regularly furnishes an employee as a part of his or her compensation for the performance of the employee's duties, but for items furnished by the employer, in part for the purpose of assisting the employee in the performance of his or her duties, and in part for personal use, only the value of the part furnished or approved for personal as opposed to business use is to be considered a fringe benefit. Every person, not excluded by section 25-5-50, in the service of another under any contract of hire, express or implied, oral or written, includes aliens and also includes minors who are legally permitted to work under the laws of the state.

~~"(8) (7) ACCIDENT. Such~~ The term, as used in the phrases 'personal injuries due to accident' or 'injuries or death caused by accident' shall, unless a different meaning is clearly indicated by the context, be construed to mean an unexpected or unforeseen event, happening suddenly and violently, with or without human fault, and producing at the time injury to the physical structure of the body or damage to an artificial member of the body by accidental means.

~~"(9) INJURIES BY AN ACCIDENT ARISING OUT OF AND IN THE COURSE OF HIS EMPLOYMENT. Without otherwise affecting either the meaning or interpretation of such clause, such clause does not cover workmen except while engaged in or about the premises where their services are being performed or where their service requires their presence as a part of such service at the time of the accident and during the hours of service as such workmen, and shall not include any injury caused by the act of a third person or fellow employee intended to injure the employee because of reasons personal to him and not directed against him as an employee or because of his employment, and it shall not include a disease unless the disease results proximately from the accident.~~

"(8) INJURY. 'Injury and personal injury' shall mean only injury by accident arising out of and in the course of the employment,

and shall not include a disease in any form, except for an occupational disease or where it results naturally and unavoidably from the accident. Injury shall include breakage or damage to eyeglasses, hearing aids, dentures, or other prosthetic devices which function as part of the body, when injury to them is incidental to an on-the-job injury to the body. Injury does not include an injury caused by the act of a third person or fellow employee intended to injure the employee because of reasons personal to him or her and not directed against him or her as an employee or because of his or her employment. Injury does not include a mental disorder or mental injury that has neither been produced nor been proximately caused by some physical injury to the body.

"(9) IN THE COURSE OF THE EMPLOYMENT. An accident occurs in the course of the employment when it occurs while the employee is engaged in the performance of his or her duties, or activities incidental thereto, either on the business premises or at a place where the employee reasonably may be engaged in his or her duties. However, for a cumulative trauma disorder to 'arise out of and in the course of the employment,' the employment must have subjected the injured individual to a risk of that injury which is materially in excess of the risk of that injury to which persons not so employed are subjected.

"(10) SINGULAR AND PLURAL. Wherever the singular is used, the plural shall be included.

"(11) GENDER. Where the masculine gender is used, the feminine and neuter shall be included.

"(12) LOSS OF HAND or FOOT. ~~Amputations~~ Amputation between the elbow and wrist shall be considered as the equivalent to the loss of a hand, and the amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot.

"(13) PREVAILING. As used herein for the purposes of this chapter, the term 'prevailing' for physicians shall be the rate set by the Workers' Compensation Medical Services Board, for hospitals shall be as established in Section 25-5-77, and for all other providers shall mean most commonly occurring, excluding federal and state medical reimbursements, and shall not be construed as an average.

"(14) PROVIDERS. As used herein for the purposes of this chapter, 'providers' includes physicians and also includes a hospital, medical clinic, pharmacist, pharmaceutical supply company, rehabilitation service, or other person or entity providing treatment, service, or equipment or person or entity providing facilities at which the employee

receives treatment. Provided, however, rehabilitation service or other person or entity providing treatment, service, or equipment shall not include rehabilitation nurses, case management workers, or medical management workers employed by or whose services are contracted for by any employer, insurer, self-insured association, or self-insured trust fund and whose primary duties are case management, medical management, and liaison between the employer/insurer and the injured worker and/or medical providers and the injured worker. The cost of persons who serve in the position of rehabilitation nurses, care management workers, or medical management workers shall not be included in any expenses of an employer, insurer, self-insured association, or self-insured trust fund upon which the insurance commissioner bases rate schedules for workers' compensation coverage.

"(15) MEDICAL. As used herein for the purposes of this chapter, 'medical' includes all services, treatment, or equipment provided by all providers.

"(16) PARTICIPATING AND NONPARTICIPATING HOSPITALS. As used herein for the purposes of this chapter, the term 'participating hospital' shall mean those hospitals that have a negotiated rate of reimbursement or payment with the Department of Industrial Relations. 'Nonparticipating hospitals' shall mean those hospitals that have not negotiated a rate of reimbursement or payment with the Department of Industrial Relations.

"(17) HOSPITAL. As used herein for the purposes of this chapter, the term 'hospital' shall include a hospital, ambulatory surgical center, and outpatient rehabilitation centers licensed by the state of Alabama.

"(13) (18) THE COURT. ~~Such term shall mean the~~ The circuit court ~~which that~~ would have jurisdiction in an ordinary civil action involving a claim for the injuries or death in question, and 'the judge' ~~shall mean~~ means a judge of ~~said that~~ court."

Section 3. Section 25-5-2, Code of Alabama 1975, is amended to read as follows:

"§25-5-2.

"The Director of the Department of Industrial Relations of the state of Alabama shall gather statistics on accidents and their causes and shall generally be responsible for the efficient administration of this chapter and, to. To this end, he or she shall have full power to make or

~~cause to be made~~ the necessary investigations and examinations in connection with the settlement of all ~~workmen's~~ workers' compensation claims. As used in this chapter, the word 'director' shall ~~be construed to mean the Director of the 'Department of Industrial Relations' or the director thereof unless a contrary meaning plainly appears.~~

Section 4. Section 25-5-3, Code of Alabama 1975, is amended to read as follows:

"§25-5-3.

~~"The director of the department of industrial relations shall prepare and cause to be printed, at the expense of the state, and to be paid for as other supplies are paid for, and upon request furnish free of charge sample copies to any employer or employee such the blank forms and literature as he or she shall deem requisite to facilitate or promote the efficient administration of articles~~ Articles 2, 3, and 4 of this chapter, other than the papers relating to court proceedings. The director shall adopt and cause a standardized claim reimbursement form to be used by providers. The director shall also assist providers in developing a system for electronic reporting, billing, and payment in workers' compensation cases. Standardized claim reimbursement forms for physicians licensed to practice medicine shall be approved by the director and the Workers' Compensation Medical Services Board. If the board and the director are unable to agree on a standardized claim reimbursement form for physicians within three months following the effective date of this act, then such form shall be established under the provisions of §27-1-16, Code of Alabama 1975."

Section 5. Section 25-5-4, Code of Alabama 1975, is amended to read as follows:

"§25-5-4.

~~"Every~~ An employer shall keep a record of all injuries, fatal or otherwise, received by his or her employees arising out of and in the course of their employment and for which compensation is claimed or paid, ~~received by his employees in the course of their employment.~~ Within 15 days after the occurrence of ~~such the~~ injuries and knowledge thereof by the employer, a report of the same shall be made to the department ~~of industrial relations~~ on forms approved by ~~said the~~ department. At the discretion of the director, reports received under ~~the provisions of this chapter~~ may be destroyed after 12 years."

Section 6. Section 25-5-8, Code of Alabama 1975, is amended to read as follows:

"§25-5-8.

"(a) Option to insure risks. ~~Every~~ An employer ~~who accepts~~ subject to ~~the provisions of~~ this chapter may secure the payment of compensation under this chapter by insuring and keeping insured his or her liability in some insurance corporation, association, organization, ~~or~~ insurance association, ~~or~~ corporation, or association formed of employers and ~~workmen~~ workers or formed by a group of employers to insure the risks under this chapter, operating by mutual assessment or other plans or otherwise; ~~provided, that such.~~ Notwithstanding the foregoing, the insurance association, organization, or corporation shall have first had its contract and plan of business approved in writing by the ~~director~~ Commissioner of the Department of Insurance of Alabama and have been authorized by the ~~said~~ Department of Insurance to transact the business of ~~workmen's~~ workers' compensation insurance in this state and under ~~such the charter or plan.~~

"(b) Option to operate as self-insurer. ~~Every~~ An employer subject to ~~the provisions of~~ this chapter who elects not to insure his or her liability thereunder shall furnish satisfactory proof to the director ~~of industrial relations~~ of his or her financial ability to pay directly ~~such~~ compensation in the amount and manner and when due as provided by this chapter, ~~whereupon~~ Whereupon, the director shall authorize ~~said~~ the employer to operate as a self-insurer, ~~;~~ provided, however, that the director may require such employer to post a surety bond or to deposit in a depository designated by the director money or securities of a kind and in an amount reasonably determined by the director and subject to such reasonable conditions as the director may prescribe, which shall include authorization to the director in case of default to sell any such securities to pay benefits due or to file a civil action upon such bond to procure payment of benefits under this chapter. The director may also prescribe other reasonable rules and regulations for the purpose of protecting the injured employee or the employee's dependents and set reasonable fees to accompany self-insurance applications.

"(c) Evidence of compliance. ~~Every~~ An employer subject to ~~the provisions of~~ this chapter shall file with the director, on a form prescribed by the director, annually or as often as the director in his or her discretion deems necessary, evidence of compliance with the requirements of this section. In cases where insurance is taken with a carrier duly authorized to write such insurance in this state, notice of insurance coverage filed by the carrier shall be sufficient evidence of compliance by the insured.

"(d) Certificate of compliance.

"(1) ISSUANCE, REVOCATION, ETC. ~~Whenever an employer has complied~~ Upon the employer's complying with the provisions of subsection (b) of this section relating to self-insurance, the director shall issue to ~~such the~~ employer a certificate, which shall remain in force for a period fixed ~~by the director~~. ~~The director may, upon~~ Upon 60 days notice and hearing to the employer, ~~the director may,~~ for financial reasons, for failure of the employer to faithfully discharge his or her obligations according to the agreements contained in his or her application for self-insurance, or for the violation of any reasonable rule or regulation prescribed by the director, revoke the self-insurance certificate, in which case the employer shall immediately insure his or her liability. Certificates of self-insurance issued prior to September 17, 1973, shall continue in force but shall become subject to revocation as provided in this subsection. At any time after such the revocation, the director may grant a new certificate to the employer upon his application by the employer.

"(2) APPEALS. An appeal may be taken from any ruling of the director under subsection (b) of this section ~~and or under~~ this subsection to the circuit court of any county wherein the employer does business. Trial in ~~such the~~ court shall be de novo and without a jury ~~unless the employer demands a jury trial at the time of taking such appeal; provided, however, that the~~. The taking of ~~any such an~~ appeal shall not stay the ruling or order appealed from unless good and sufficient bond approved by the judge of the court to which the appeal is taken shall be filed with the clerk of ~~said the~~ court, conditioned on complying with such order as may be legally made effective and further conditioned upon payment by the employer of all final ~~judgments orders~~ for compensation that may be rendered against ~~him the employer~~ pending the disposition of ~~such the~~ appeal.

"(c) Penalties for failure to secure payment of compensation; injunctions. ~~Any An~~ employer required to secure the payment of compensation under this section who fails to secure compensation shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than ~~\$25.00~~ one hundred dollars (\$100) nor more than ~~\$1,000.00~~ one thousand dollars (\$1,000). In addition ~~thereto, any~~ an employer required to secure the payment of compensation under this section who fails to secure ~~such the~~ compensation shall be liable for two times the amount of compensation which would have otherwise been payable for injury or death to an employee. The director ~~is authorized to may~~ apply to any a court of competent jurisdiction for an injunction to restrain threatened or continued violation of any provisions relating to the requirements of insurance or self-insurance. The court may institute civil penalties against an employer in noncompliance with this act, in an

amount not to exceed one hundred dollars (\$100) per day. Subsequent compliance with this act shall not be a defense.

"(f) Employer insurance policies.

"(1) REQUIRED AND PROHIBITED PROVISIONS. Insurance policies written pursuant to this section shall contain a clause to the effect that, as between the ~~workman~~ worker and the insurer, notice to and knowledge by the employer of the occurrence of the injury shall be deemed notice and knowledge on the part of the insurer; that jurisdiction of the employer for the purpose of this chapter shall be jurisdiction of the insurer; and, that the insurer will in all things be bound by and subject to the ~~awards, adjudgment~~ award or judgment rendered against ~~such~~ the employer upon the risk so insured. ~~Such~~ The policies shall provide that the ~~workman~~ worker shall have an equitable lien upon any amount ~~which that~~ shall become owing, on account of ~~such the~~ policy, to the employer from the insurer, and, in case of legal incapacity or inability of the employer to receive the ~~said~~ amount owing and pay it over to the ~~workman~~ worker or his or her ~~dependents~~ dependent, that the ~~said~~ insurer will pay the same direct to the ~~said workman~~ worker or ~~dependents~~ dependent, thereby discharging all obligations under the policy to the employer and all the obligations of the employer and the insurer to the ~~workman~~ worker. ~~but such~~ Such policies, however, shall contain no obligations relieving the insurance company from payment of obligations ~~when~~ if the employer becomes insolvent or discharged in bankruptcy or otherwise during the period the policy is in force, if the compensation remains owing. The insurer must be one authorized by law to conduct ~~such~~ business in the state of Alabama, and all insurance companies writing such insurance may include in their policies, in addition to the requirements now provided by law, the additional requirements, terms, and conditions ~~in this section~~ provided in this section.

"(2) FILING OF AND APPROVAL OF PREMIUM AND RISK CLASSIFICATIONS. ~~Every~~ An insurance corporation, mutual corporation, reciprocal exchange, or association authorized to transact the business of ~~workmen's~~ workers' compensation insurance in this state and which insures employers against liability for compensation under ~~the provisions of~~ this chapter shall file with the Department of Insurance its classification of risks and premiums relating thereto and any subsequent proposed classification of risks and premiums, together with the basic rates and merit-rating schedules, if a system of schedule rating or merit rating is used by ~~such the~~ insurance corporation, exchange, or association, none of which shall take effect until the ~~director~~ Commissioner of the Department of Insurance shall have approved the same as

reasonable, adequate, and not excessive. All filings with the Department of Insurance containing aggregate industry data of classifications of risks and premiums, rates, and merit-rating schedules pertaining to workers' compensation insurance shall be public records, notwithstanding any other provisions of Alabama law. The Commissioner of the Department of Insurance shall convene a public hearing with reasonable public notice for the purpose of considering public testimony and other evidence relevant to any filing. Prior to approval of any bureau loss cost or rate filing related to workers' compensation insurance, the Commissioner of the Department of Insurance may convene a public hearing with reasonable public notice for the purpose of considering public testimony and other evidence relevant to the filing pending. Within 10 days after such approval, of said rates, schedules and system of schedule or merit rating by said director the Commissioner of the Department of Insurance, he shall make or cause to be made a sufficient number of printed or typewritten copies of same for such that purpose, and shall mail at least one copy of each of the same to every insurance carrier writing workmen's workers' compensation business in the state of Alabama, at its the carrier's last address or at the last address of its designated agent to receive the same left in writing by such carrier with said department. And every such The insurance carrier shall (or if such insurance carrier it is a member of or associated with a rating or inspection bureau, either or both of them, or a concern or aggregation of like character, it shall cause such the rating and inspection bureau, either or both, or concern or aggregation of like character with which it is affiliated to do so) file with the Department of Insurance a full and complete statement of the actuarial and underwriting experience data and the like in its possession, from which and upon which said the rates, schedules, and systems so filed were ascertained, calculated, and constructed, and, within six months after the expiration of each succeeding six months, shall file a like statement of all actuarial and underwriting data and the like, pertaining to such the rates, schedules, and system accumulated or acquired by it during the preceding six months. Upon failure to file said the statement within the time specified above, said the rates, schedules, or and systems may be presumed by the director Commissioner of the Department of Insurance, without more, to be excessive, unreasonable, inadequate to provide the necessary reserves, or discriminatory, as the case may be. The said director Commissioner of the Department of Insurance may withdraw his or her approval of any premium rate or schedule made by any such an insurance corporation, association, mutual corporation, or reciprocal exchange, if, in his or her judgment, such the premium rate or schedule is excessive, or unreasonable, or discriminatory, or is inadequate to provide the necessary reserves. The commissioner shall withdraw approval of any premium rate or schedule shown by a motor common carrier employer to be conditioned on the

motor common carrier accepting the coverage of owner-operators or lease-operators as a condition to providing coverage for the motor common carrier employer's employees.

"Nothing contained in this chapter or in any other law of this state shall affect the right of any an insurance corporation or any a mutual or reciprocal insurance corporation or association to issue participating policies or contracts or to pay savings, refunds, or dividends upon such the policies or contracts.

"(3) PAYMENT OF INSURANCE COSTS BY EMPLOYEES. No agreement by an employee to pay to an employer any portion of the cost of insuring his or her risk under this chapter shall be valid unless such the agreement between the employer and employee, the plan of which is part of a contract, is approved in writing by the director commissioner of the department of insurance of the state of Alabama. But the employer and the workman worker may agree to carry the risks covered by this chapter in conjunction with other and greater risks and to provide other and greater benefits, such as additional compensation; accident, sickness, or old age insurance; or benefits, and the fact that such the plan involves a contribution by the workman worker shall not prevent its validity if such the plan has been approved in writing by the director commissioner of the department of insurance of Alabama. Any An employer who shall make makes any charge or deduction prohibited by this section shall be is guilty of a misdemeanor.

"(4) DIRECT ACTIONS AGAINST INSURERS. If the employer shall insure to his employees insures the payment of the compensation provided by this chapter and according to the full benefits thereof and with full coverage under this chapter in a corporation or association authorized to do business in the state of Alabama and approved by the director commissioner of the department of insurance of the state of Alabama, and if the employer shall post posts a notice or notices in a conspicuous place or in conspicuous places about his or her place of employment, stating that he or she is insured and by whom insured; and if the employer shall further file files a copy of such the notice with the Department of Insurance, then, and in such case, any civil actions brought by an injured employee or his the employee's dependents dependent shall be brought directly against the insurer, and the employer, or insured, shall be released from any further liability. In case of insolvency or bankruptcy of said insurance company or in case If the insurance company is insolvent or bankrupt, or if it cannot be reached by due diligence by process in this state, the employer shall not be released from liability under the provisions of this chapter. Should any recovery be had in excess of the amount of the insurance carried,

the employer shall be liable for ~~such the~~ excess. The return of ~~any~~ execution upon ~~any a~~ judgment of ~~any an~~ employee against ~~any such an~~ insurance company, unsatisfied in whole or in part, shall be conclusive evidence of the insolvency of ~~such the~~ insurance company for the purposes of this chapter, and, ~~in the event of adjudication of bankruptcy or insolvency of any such insurance company~~ if the insurance company is adjudged to be bankrupt or insolvent by ~~any a~~ court of competent jurisdiction, proceedings may be brought by the employee against the employer in the first instance or against ~~such the~~ employer and the insurance company jointly or severally or in ~~any a~~ pending proceeding against ~~any the~~ insurance company, and the employer may be joined at any time after ~~such the~~ adjudication.

"(g) Employer bill of rights-penalty.

"(1) Every insurance carrier and self-insurers, individual and group, shall, on written request of the insured employer, provide the employer with a list of claims made against the employer. The information provided to the employer shall include amounts paid for closed claims and, if requested, details regarding the treatment and condition of the injured or disabled worker. The employer shall also receive notice of any proposed settlement of any claim against the employer if the employer so requests in writing.

"(2) In the event a court determines and makes a finding that a worker has filed a fraudulent claim for workers' compensation benefits under this act, the provisions of Section 25-5-11.1 shall not apply to the employer. In addition to the denial of workers' compensation benefits under this act, the employer, upon such a finding that a worker has filed a fraudulent claim for workers' compensation benefits under this act, may terminate the worker.

"(3) Failure to comply with subdivision (1) may subject the violator to a fine, upon hearing by a court, of not less than twenty-five dollars (\$25) or more than one hundred dollars (\$100)."

Section 7. Section 25-5-10, Code of Alabama 1975, is amended to read as follows:

"§25-5-10.

"(a) ~~Any~~ A person who creates or carries into operation any fraudulent scheme, artifice, or device to enable him to execute work without himself being responsible to the ~~workman~~ worker for the provisions of benefits provided by this chapter shall himself be included

in the term 'employer' and shall be subject to all the liabilities of employers under this chapter. ~~But this section shall not be construed to cover or mean an owner who lets a contract to a contractor in good faith, nor to a contractor who, in good faith, lets to a subcontractor a portion of his contract; but no person shall be deemed a contractor or subcontractor so as to make him liable to pay compensation within the meaning of this section who performs his work upon the employer's premises, with the employer's tools or appliances, and under the employer's directions, nor one who does what is commonly known as "piece work," or, in any way, where the system of employment used merely provides a method of fixing the workman's wages.~~

"(b) When compensation is claimed from or proceedings taken against a person under subsection (a) of this section, the compensation shall be calculated with reference to the wage the workman worker was receiving from the person by whom he or she was immediately employed at the time of the injury.

"(c) The employer shall not be liable or required to pay compensation for injuries due to the acts ~~of~~ or omissions of third persons not at the time in the service of the employer nor engaged in the work in which the injury occurs, except as provided in Section 25-5-11."

Section 8. Section 25-5-11, Code of Alabama 1975, is amended to read as follows:

"§25-5-11.

"(a) ~~Where~~ If the injury or death for which compensation is payable under Articles 3 or 4 of this chapter was caused under circumstances also creating a legal liability for damages on the part of any party other than the employer, whether or not ~~such the~~ such the party is subject to ~~the provisions of~~ this chapter, the employee, or his or her dependents in case of his death, may proceed against the employer to recover compensation under this chapter or may agree with the employer upon the compensation payable under this chapter, and, at the same time, may bring an action against ~~such the~~ such the other party to recover damages for ~~such the~~ such the injury or death, and the amount of ~~such the~~ such the damages shall be ascertained and determined without regard to this chapter. ~~;- provided, however, if such~~ If a party, other than the employer, is a workers' compensation insurance carrier of the employer or any person, firm, association, trust, fund, or corporation responsible for servicing and payment of workers' compensation claims for the employer, or any officer, director, agent, ~~servant~~ employee of ~~such the~~ such the carrier, person, firm, association, trust, fund, or corporation, or is a

labor union, or any official or representative thereof, or is a governmental agency providing occupational safety and health services, or an employee of the agency, or is an officer, director, agent, servant or employee of the same employer, or his or her personal representative, the injured employee, or his or her dependents in the case of his death, may bring ~~such~~ an action against any workers' compensation insurance carrier of the employer or any person, firm, association, trust, fund, or corporation responsible for servicing and payment of workers' compensation claims for the employer, ~~or such labor union, or the governmental agency, or such person, or his or her personal representative,~~ only for willful conduct which results in or proximately causes the injury or death. If the injured employee, or in case of ~~his~~ death, his or her dependents, recover damages against ~~such the~~ other party, the amount of ~~such the~~ damages ~~so~~ recovered and collected shall be credited upon the liability of the employer for compensation, ~~and if such~~ If the damages ~~so~~ recovered and collected ~~should be~~ are in excess of the compensation payable under this chapter, there shall be no further liability on the employer to pay compensation on account of ~~such the~~ injury or death. To the extent of ~~any such the~~ recovery of damages against ~~such the~~ other, the employer shall be entitled to reimbursement for the amount of compensation theretofore paid on account of ~~such~~ injury or death. If the employee who recovers damages is receiving or entitled to receive compensation for permanent total disability, then the employer shall be entitled to reimbursement for the amount of ~~such~~ compensation theretofore paid, and the employer's obligation to pay further compensation for permanent total disability shall be suspended for the number of weeks which equals the quotient of the total damage recovery, ~~{less the amount of any reimbursement for compensation already paid},~~ divided by the amount of the weekly benefit for permanent total disability which the employee was receiving or to which the employee was entitled. For purposes of this act, the employer shall be entitled to subrogation for medical and vocational benefits expended on behalf of the employee pursuant to the common law of Alabama, or based upon equitable principles, or otherwise as determined on a case-by-case basis by the court.

"(b) If personal injury or death to any employee results from the willful conduct, as defined in subsection (c) herein, of any officer, director, agent, ~~servant~~ or employee of the same employer or any workers' compensation insurance carrier of the employer or any person, firm, association, trust, fund, or corporation responsible for servicing and any payment of workers' compensation claims for the employer, or any officer, director, agent, ~~servant~~ or employee of ~~such the~~ carrier, person, firm, association, trust, fund, or corporation, or of a labor union, or an official or representative thereof, the employee shall have a

cause of action against ~~such~~ the person, workers' compensation carrier, or labor union.

"(c) As used herein, 'willful conduct' means any of the following:

"(1) A purpose or intent or design to injure another; and ~~where~~ if a person, with knowledge of the danger or peril to another consciously pursues a course of conduct with a design, intent, and purpose of inflicting injury, then he or she is guilty of 'willful conduct.'

"(2) The willful and intentional removal from a machine of a safety guard or safety device provided by the manufacturer of the machine with knowledge that injury or death would likely or probably result from ~~such~~ the removal; provided, however, that removal of ~~such~~ a guard or device shall not be willful conduct unless ~~such~~ the removal did, in fact, increase the danger ~~of in the~~ in the use of the machine and was not done for the purpose of repair of the machine or was not part of an improvement or modification of the machine which rendered the safety device unnecessary or ineffective; ~~or.~~

"(3) The intoxication of another employee of the employer ~~when~~ if the conduct of that employee has wrongfully and proximately caused injury or death to the plaintiff or plaintiff's decedent, but no employee shall be guilty of willful conduct on account of the intoxication of ~~any other~~ another employee or ~~other~~ another person; ~~or.~~

"(4) Willful and intentional violation of a specific written safety rule of the employer after written notice to the violating employee by another employee who, within six months after the date of receipt of ~~such~~ the written notice, suffers injury resulting in death or permanent total disability as a proximate result of ~~said~~ the willful and intentional violation. ~~Said~~ The written notice to the violating employee must state with specificity all of the following:

"a. The identity of the violating employee; .

"b. The specific written safety rule being violated and the manner of the violation; .

"c. That the violating employee has repeatedly and continually violated the specific written safety rule referred to in b above with specific reference to previous times, dates, and circumstances; .

"d. That ~~such~~ the violation places the notifying employee at risk

of great injury or death.

"A notice that does not contain all of the above elements will not be valid notice for purposes of this section. An employee shall not be liable for ~~such the~~ willful conduct if the injured employee himself or herself violated a safety rule, or otherwise contributed to his or her own injury. ~~and no~~ No employee shall be held liable under this ~~paragraph~~ section for the violation of any safety rule by any other employee or for failing to prevent any violation by any other employee.

"(d) In the event the injured employee, or his or her dependents, in case of his death, ~~his dependents~~ do not file a civil action against ~~such the~~ other party to recover damages within the time allowed by law, the employer or the insurance carrier for the employer shall be allowed an additional period of six months within which to bring a civil action against ~~such the~~ other party for damages on account of ~~such the~~ injury or death. In the event the employer or the insurance carrier ~~shall have~~ has paid compensation to ~~such the~~ employee or his or her ~~dependents~~ dependent, or in the event a proceeding is pending against the employer to require the payment of ~~such the~~ compensation, ~~such the~~ civil action may be maintained either in the name of the injured employee or, in the name of his or her dependent in case of his death, ~~in the name of his dependents~~, or in the name of the employer or the insurance carrier. ~~and in~~ In the event the damages recovered in ~~such the~~ civil action are in excess of the compensation payable by the employer under this chapter and costs, attorney's fees, and reasonable expenses incurred by the employer in making ~~such the~~ collection, the excess of ~~such the~~ amount shall be held in trust for the injured employee or, in case of his death, for ~~his the~~ employee's dependents. ~~In the event~~ If ~~such the~~ injured employee has no ~~dependents~~ dependent, ~~his the~~ personal representative, in the event of his death, may bring a civil action against ~~such the~~ other party to recover damages without regard to this chapter.

"(e) In ~~any a~~ settlement made under this section with a third party by the employee or, in ~~the~~ case of his death, by his or her dependents, the employer shall be liable for that part of the attorney's fees incurred in the settlement with the third party, ~~either~~ with or without a civil action, in the same proportion that the amount of the reduction in the employer's liability to pay compensation bears to the total recovery had from ~~such the~~ third party. For purposes of the subrogation provisions of this subsection only, 'compensation' includes medical expenses, as defined in Section 25-5-77.

"(f) For the purpose of this section, ~~any a~~ carrier, person, firm, association, trust, fund, or corporation ~~shall include any~~ includes a com-

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pany or a governmental agency making a safety inspection on behalf of ~~any~~ a self-insured employer or its employees and ~~any~~ an officer, director, agent, servant or employee of such the company or a governmental agency."

Section 9. Sections 25-5-30, 25-5-31, 25-5-33, 25-5-34, 25-5-35, and 25-5-36, Code of Alabama 1975, are amended to read as follows:

"§25-5-30.

"This article shall not apply in cases where ~~article~~ Articles 3 and 4 of this chapter ~~becomes~~ becomes operative in accordance with the provisions thereof, but shall apply in all other cases, and in such cases shall be an extension or modification of the common law."

"§25-5-31.

"(a) ~~When personal~~ If injury or death is caused to an employee by an accident, as defined in Article 3, or by an occupational disease, as defined in Article 4, arising out of and in the course of his employment, of which injury the actual or lawfully imputed negligence of the employer is the natural and proximate cause, ~~he, or in case of death, his personal representative, for the exclusive benefit of the surviving spouse and next of kin, shall receive compensation by way of damages therefor from the employer; provided, that the injury or death was not caused by the wilful misconduct of the employee or was not due to misconduct on his part, as defined in section 25-5-51~~ the employee is entitled to maintain an action for civil damages therefor from the employer.

"(b) If the injury results in death, the personal representative of the deceased employee's estate is entitled to maintain an action for civil damages therefor from the employer, which damages shall be distributed according to the statute of descent and distribution.

"(c) Damages received under this section are not subject to the payment of debts or obligations or any legal liabilities incurred by the injured or deceased employee.

"(d) The burden of proof shall be upon the defendant to establish the injured or deceased employee's willful misconduct or other misconduct as defined in Section 25-5-51."

"§25-5-33.

"The provisions of sections 25-5-31 and 25-5-32 shall apply to any

claims for death of an employee as covered by sections 6-5-391, and 6-5-410 and ~~25-6-3~~, and to personal injuries arising under ~~sections Section 6-5-390 and 25-6-1.~~"

"§25-5-34.

"The provisions of this article ~~and article 3 of this chapter~~ shall apply to employees who are minors and who have been employed in accordance with or contrary to laws regulating the employment of minors. If at the time of injury or death, the minor was employed in violation of or contrary to the law regulating the employment or any part thereof, then the ~~compensation civil damages~~ shall be two times what it would be if the employment had been legal."

"§25-5-35.

"(a) ~~As used in this section:~~

~~"(1) The term "United States" includes only the states of the United States and the District of Columbia; and~~

~~"(2) The term "state" includes any state of the United States or the District of Columbia.~~

~~"(b) For the purposes of this section, a person's employment is principally localized in this or another state when his employer has a place of business in this or such other state and he regularly works at or from such place of business, or if he is domiciled and spends a substantial part of his working time in the service of his employer in this or such other state.~~

~~"(c) An employee whose duties require him to travel regularly in the service of his employer in this and one or more other states may, by written agreement with his employer, provide that his employment is principally localized in this or another such state; and, unless such other state refuses jurisdiction, such agreement shall be given effect under this section.~~

~~"(d) If an employee, while working outside of this state, suffers an injury on account of which he or, in the event of his death, his dependents, would have been entitled to the benefits provided by this article and article 3 of this chapter had such injury occurred within this state, such employee or, in the event of his death resulting from such injury, his dependents, shall be entitled to the benefits provided by this article and article 3 of this chapter, provided that at the time of such injury;~~

~~"(1) His employment was principally localized in this state;~~

~~"(2) He was working under a contract of hire made in this state in employment not principally localized in any state;~~

~~"(3) He was working under a contract of hire made in this state in employment principally localized in another state whose workmen's compensation law was not applicable to his employer; or~~

~~"(4) He was working under a contract of hire made in this state for employment outside the United States.~~

~~"(e) The payment or award of benefits under the workmen's compensation law of another state, territory, province or foreign nation to an employee or his dependents otherwise entitled on account of such injury or death to the benefits of this article and article 3 of this chapter shall not be a bar to a claim for benefits under this article and article 3 of this chapter; provided that claim under this article is filed within the time limits set forth in section 25-5-80. If compensation is paid or awarded under this article and article 3 of this chapter;~~

~~"(1) The medical and related benefits furnished or paid for by the employer under such other workmen's compensation law on account of such injury or death shall be credited against the medical and related benefits to which the employee would have been entitled under this article and article 3 of this chapter had claim been made solely under this article and article 3 of this chapter;~~

~~"(2) The total amount of compensation paid or awarded the employee under such other workmen's compensation law shall be credited against the total amount of compensation which would have been due the employee under this article and article 3 of this chapter, had claim been made solely under this article and article 3 of this chapter; and~~

~~"(3) The total amount of death benefits paid or awarded under such other workmen's compensation law shall be credited against the total amount of death benefits due under this article and article 3 of this chapter.~~

~~"(f) The recovery of any compensation benefits under the law of any other state shall bar any common-law or statutory right of action for damages that an employee or his dependents might otherwise have had against the employer or the officers, directors or employees of the employer as a result of the injury or death on account of which such compensation benefits were paid.~~

~~"(g) If, as a result of an employment principally localized in another state, an employee of an employer who would have been subject to this article or article 3 of this chapter, had the contract of employment been entered into in this state for performance in this state, suffers injury or death as a result of an accident occurring in this state, compensation and medical, surgical and hospital benefits on account of such injury or death may be recovered under this article or article 3 of this chapter.~~

"The recovery of any compensation benefits, civil damages, or award, under the law of another state, shall bar a common-law or statutory right of action for compensation or civil damages that any employee, or in case of death the personal representative of the employee's estate, might otherwise have had against the employer as a result of the injury or death on account of which such benefits or damages were paid."

"§25-5-36.

~~"In all actions of law brought pursuant to this article, the burden of proof to establish the wilful misconduct or other misconduct as defined in section 25-5-51, of the injured employee shall be upon the defendant.~~

"For purposes of this article:

"(a) In case of personal injury by accident, as defined in Section 25-5-1(8), or by occupational disease, as defined in Section 25-5-1(110)(1), (2), and (3), all actions not filed within two years after the accident, or after the last date of exposure proximately resulting in the injury by occupational disease, shall be forever barred; and

"(b) In case of death by accident, as defined in Section 25-5-1(8), or by occupational disease, as defined in Section 25-5-1(110)(1), (2), and (3) if death proximately results within three years after the accident, or after the last date of exposure proximately resulting in death by occupational disease, all actions not filed within two years after the death shall be forever barred."

Section 10. Section 25-5-50, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 3.

"ELECTIVE COMPENSATION UNDER CONTRACT
"OF EMPLOYMENT.

"§25-5-50.

"This article and Article 2 of this chapter shall not be construed or held to apply to ~~domestic servants, to farm laborers~~ an employer of a domestic employee; an employer of a farm laborer; whose employers have not filed an election to become subject to this chapter or to persons an employee of a person whose employment at the time of the injury is casual and not in the usual course of the trade, business, profession, or occupation of the employer; or to any an employer who regularly employs less than three employees in any one business, other than the business of constructing or assisting on-site in the construction of single-families, detached residential dwellings or to any a municipality having a population of less than 2,000 according to the most recent federal decennial census. Any An individual employer, as defined in section 25-5-1 hereof, any employer who regularly employs less than three employees in any one business; any farmer, a farm-labor employer; an employer of a domestic employee; or any a municipality having a population of less than 2,000 according to the most recent federal decennial census, may accept and become subject to the provisions of this article and Article 2 4 of this chapter by filing written notice thereof with the Department of Industrial Relations, a copy thereof to be posted at the place of business of said the employer; provided further, that any an employer who has so elected to accept the provisions of this article and Article 2 4 of this chapter may at any time withdraw the acceptance by giving like notice of withdrawal.

"Notwithstanding the foregoing paragraph, any an officer of a corporation may elect annually to be exempt from coverage by filing written certification of such the election with the department of industrial relations and his the employer's insurance carrier.

"A At the end of any calendar year, a corporate officer who has been exempted, himself by proper certification from coverage, may at the end of any calendar year revoke such the exemption and thereby accept coverage by filing written certification of his or her election to be covered with the department of industrial relations and his the employer's insurance carrier.

"The certification for exemption or reinstatement of coverage shall become effective on the first day of the calendar month following the filing of the certification of exemption or reinstatement of coverage with the department of industrial relations.

"In the event that If the corporate officer election occurs elects to be exempt from coverage, such the election shall not relieve the employer from continuing coverage for all other eligible employees who may have been covered prior to the election or who may subsequently be

employed by the firm.

"This section shall provide for voluntary coverage of certified volunteer fire departments as described in Section 9-3-17 and legally organized rescue squads that meet the minimum personnel and equipment standards as established by the Alabama Association of Rescue Squads, that are engaged in fighting a fire or performing other duties involving any emergency incident and while performing any official supervised duties of the organization, including maintaining equipment and attending official training classes, and while traveling to and from an emergency incident.

"In all cases where an injury that is compensable under the terms of the Alabama workers' compensation law is received by a volunteer fire fighter or rescue squad member, the wages for purposes of computing the average weekly wage shall be equal to 66 2/3 percent of what he or she is earning at his or her regular place of employment or 66 2/3 percent of the minimum wage, whichever is greater.

"In no event shall the regular employer of a volunteer fire fighter or rescue squad member be liable for a compensable injury under this section."

Section 11. Section 25-5-51, Code of Alabama 1975, is amended to read as follows:

"§25-5-51.

"~~When~~ If an employer is subject to this article, compensation, according to the schedules hereinafter contained, shall be paid by ~~every such~~ the employer, or those conducting the business during bankruptcy or insolvency, in every case of personal injury or death of his or her employee caused by an accident arising out of and in the course of his or her employment, without regard to any question of negligence, except, that. Notwithstanding the foregoing, no compensation shall be allowed for an injury or death caused by the willful misconduct of the employee, or by the employee's intention to bring about the injury or death of himself or herself or of another, or due to his own intoxication or his or her willful failure or willful refusal to use safety appliances provided by the employer or by an accident due to the injured employee being intoxicated from the use of alcohol or being impaired by illegal drugs.

"A positive drug test conducted and evaluated pursuant to standards adopted for drug testing by the U.S. Department of Transport-

tation in 49 C.F.R. part 40 shall be a conclusive presumption of impairment resulting from the use of illegal drugs. No compensation shall be allowed if the employee refuses to submit to or cooperate with a blood or urine test as set forth above after the accident after being warned in writing by the employer that such refusal would forfeit the employee's right to recover benefits under this chapter.

"No compensation shall be allowed if at the time of or in the course of entering into employment or at the time of receiving notice of the removal of conditions from a conditional offer of employment the employee knowingly and falsely misrepresents in writing his or her physical or mental condition and said condition is aggravated or reinjured in an accident arising out of and in the course of his or her employment.

"At the time an employer makes an unconditional offer of employment or removes conditions previously placed on a conditional offer of employment, the employer shall provide the employee with the following written warning in bold type print, 'Misrepresentations as to preexisting physical or mental conditions may void your workers' compensation benefits.' If the employer defends on the ground that the injury arose in any or all of the last above-stated ways, the burden of proof shall be on the employer to establish such the defense."

Section 12. Section 25-5-52, Code of Alabama 1975, is amended to read as follows:

"§25-5-52.

"No Except as provided in this chapter, no employee of any employer subject to this ~~article~~ chapter, nor the personal representative, surviving spouse, or next of kin of ~~any such~~ the employee shall have ~~any~~ a right to any other method, form, or amount of compensation or damages for ~~any an~~ injury or death occasioned by ~~any an~~ accident or occupational disease proximately resulting from and while engaged in the actual performance of the duties of his or her employment and from a cause originating in such employment or determination thereof ~~other than as provided in this article.~~"

Section 13. Section 25-5-53, Code of Alabama 1975, is amended to read as follows:

"§25-5-53.

"The rights and remedies ~~herein~~ granted in this chapter to an

employee shall exclude all other rights and remedies of said the employee, his or her personal representative, parent, dependents dependent, or next of kin, at common law, by statute, or otherwise on account of said injury, loss of services, or death. Except as provided in this article and article 2, as the case may be, of this chapter, no employer included within the terms of this chapter shall be held civilly liable for any personal injury to or death of any workman who is an employee of the employer and the employer's employee, for purposes of this chapter, whose injury or death is due to an accident or to an occupational disease while engaged in the service or business of the employer, the cause of which accident or occupational disease originates in the employment. In addition, immunity from civil liability for all such causes of action except those based upon willful conduct shall also extend to any workers' the workers' compensation insurance carrier of the employer; or any to a person, firm, association, trust, fund, or corporation responsible for servicing and payment of workers' compensation claims for the employer; or any to an officer, director, agent, servant or employee of such the carrier, person, firm, association, trust, fund, or corporation; and to any a labor union, or any an official, or representative thereof; to a governmental agency providing occupational safety and health services, or an employee of the agency, and to any an officer, director, agent, servant or employee of the same employer, or his or her personal representative. Nothing in this section shall be construed to relieve any a person from criminal prosecution for failure or neglect to perform any a duty imposed by law.

"For the purpose of this section, any a carrier, person, firm, association, trust, fund, or corporation shall include any a company or a governmental agency making a safety inspection on behalf of any a self-insured employer or its employees and any an officer, director, agent, servant or employee of such the company or a governmental agency."

Section 14. Section 25-5-54, Code of Alabama 1975, is amended to read as follows:

"§25-5-54.

"All contracts of employment made on or after January 1, 1920, shall be presumed to have been made with reference to and subject to the provisions of this article. All contracts of employment made prior to, and existing on, January 1, 1920, shall be presumed to continue from and after January 1, 1920, subject to and under the provisions of this article. Every employer and employee, except as otherwise specifically provided in this article, shall be presumed to have accepted and come

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under this article and Article 4 of this chapter and the provisions thereof relating to the payment and acceptance of compensation."

Section 15. Section 25-5-55, Code of Alabama 1975, is amended to read as follows:

"§25-5-55.

~~"Minors shall, for~~ For the purposes of this article and Article 4 of this chapter, minors shall have the same power to contract, make settlements and receive compensation as adult employees, subject to the power of the court, in its discretion, ~~at any time~~ to require the appointment of a guardian to make ~~such~~ the settlement and to receive moneys thereunder or under an award. Payments of awards made to ~~such~~ minors or their guardians shall exclude any further compensation either to the minors or to their parents for loss of services or otherwise."

Section 16. Section 25-5-56, Code of Alabama 1975, is amended to read as follows:

"§25-5-56.

"The interested parties shall have the right to settle all matters of ~~compensation~~ benefits, whether involving compensation, medical payments, or rehabilitation, and all questions arising under this article and Article 4 of this chapter between themselves, and every settlement ~~made under this article~~ shall be in amount the same as the amounts or benefits stipulated in this article. No settlement for an amount less than the amounts or benefits stipulated in this article shall be valid for any purpose, unless a judge of the circuit court of the county where the claim for compensation under this chapter is entitled to be made, or upon the written consent of the parties, a judge of the circuit court of any county determines that it is for the best interest of the employee or ~~his~~ the employee's dependents dependent to accept a lesser sum and approves ~~such~~ the settlement. The court shall not approve any ~~such~~ settlement unless and until it has first made inquiry into the bona fides of a claimant's claim and the liability of the defendant, and if deemed advisable, the court may hold a hearing thereon. ~~Any settlements~~ Settlements made hereunder may be vacated for fraud, undue influence, or coercion, upon application made to the judge approving the settlement at any time not later than six months after the date of settlement. Upon ~~such~~ settlements being approved, judgment shall be entered thereon and duly entered on the records of ~~said~~ the court in the same manner and have the same effect as other judgments or as an award if the settlement is not for a lump sum. ~~The costs of the proceedings shall not exceed~~

~~\$2.00 and shall be borne by the employer. Such proceeding shall not be deemed subject to state trial, library or other taxes, general or local.~~ All moneys voluntarily paid by the employer or insurance carrier to an injured employee in advance of agreement or award shall be treated as advance payments on account of the compensation. In order to encourage advance payments, it is expressly provided that such the payments shall not be construed as an admission of liability but shall be without prejudice."

Section 17. Section 25-5-57, Code of Alabama 1975, is amended to read as follows:

"§25-5-57.

"(a) Compensation schedule. Following is the schedule of compensation:

"(1) TEMPORARY TOTAL DISABILITY. For injury producing temporary total disability, the compensation shall be 66 2/3 percent of the average weekly earnings received at the time of injury, subject to a maximum and minimum weekly compensation as stated in Section 25-5-68, but if at the time of injury the employee received average weekly earnings of less than the minimum stated in Section 25-5-68, then he or she shall receive the full amount of such the average weekly earnings per week. This compensation shall be paid during the time of such the disability, but at such the time as a temporary total disability shall become permanent, compensation for the continued total disability shall be governed by ~~the provisions of~~ (a)(4) of this section with respect to permanent total disability. Payments are to be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree.

"(2) TEMPORARY PARTIAL DISABILITY.

"a. Amount and Duration of Compensation. ~~In all cases of~~ For temporary partial disability, the compensation shall be 66 2/3 percent of the difference between the average weekly earnings of the ~~workman~~ worker at the time of the injury and the average weekly earnings he or she is able to earn in his or her partially disabled condition. This compensation shall be paid during the period of such the disability, but not, ~~however,~~ beyond 300 weeks. Payments shall be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree, and shall be subject to the same maximum weekly compensation as stated in Section 25-5-68.

"b. Effect of Change in Employment. If the injured employee

who is receiving ~~such~~ compensation for temporary partial disability ~~should leave~~ leaves the employment of the employer by whom he or she was employed at the time of the accident for which ~~such the~~ compensation is being paid, he or she shall, upon securing employment elsewhere, give to ~~such the~~ former employer an affidavit in writing containing the name of his or her new employer, the place of employment, and the amount of wages being received at ~~such the~~ new employment, and until he or she gives ~~such the~~ affidavit, the compensation for temporary partial disability shall cease. The employer for whom ~~such the~~ employee was employed at the time of the accident for which ~~such the~~ compensation is being paid may also at any time demand of ~~such the~~ employee an additional affidavit, in writing, containing the name of his or her employer, the place of his or her employment, and the amount of wages he or she is receiving; and, if the employee upon ~~such~~ demand fails or refuses to make and furnish ~~such the~~ affidavit, his or her right to compensation for temporary partial disability shall cease until ~~such the~~ affidavit is made and furnished.

"(3) PERMANENT PARTIAL DISABILITY.

"a. Amount and Duration of Compensation. For permanent partial disability, the compensation shall be based upon the extent of ~~such the~~ disability. In cases included in the following schedule, the compensation shall be $66 \frac{2}{3}$ percent of the average weekly earnings, during the number of weeks set out in the following schedule:-

"1. For the loss of a thumb, 62 weeks.

"2. For the loss of a first finger, commonly called the index finger, 43 weeks.

"3. For the loss of a second finger, 31 weeks.

"4. For the loss of a third finger, 22 weeks.

"5. For the loss of a fourth finger, commonly called the little finger, 16 weeks.

"6. The loss of the first phalange of the thumb or of any finger shall be considered as equal to the loss of one half of ~~such the~~ thumb or finger, and compensation shall be paid at the prescribed rate during one half of the time specified above for ~~such the~~ thumb or finger.

"7. The loss of two or more phalanges shall be considered as the loss of the entire finger or thumb, but in no case shall the amount re-

ceived for more than one finger exceed the amount provided in this schedule for the loss of a hand.

"8. For the loss of a great toe, 32 weeks.

"9. For the loss of any of the toes other than the great toe, 11 weeks.

"10. The loss of the first phalange of any toe shall be considered to be equal to the loss of one half of ~~such~~ the toe, and compensation shall be paid at the prescribed rate during one half the time prescribed above for ~~such~~ the toe.

"11. The loss of two or more phalanges shall be considered as the loss of an entire toe.

"12. For the loss of a hand, 170 weeks.

"13. For the loss of an arm, 222 weeks.

"14. For the loss of a foot, 139 weeks.

"15. Amputation between the elbow and wrist shall be considered as the equivalent to the loss of a hand, and amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot.

"16. For the loss of a leg, 200 weeks.

"17. For the loss of an eye, 124 weeks.

"18. For the complete and permanent loss of hearing in both ears, 163 weeks.

"19. For the complete and permanent loss of hearing in one ear, 53 weeks.

"20. For the loss of an eye and a leg, 350 weeks.

"21. For the loss of an eye and one arm, 350 weeks.

"22. For the loss of an eye and a hand, 325 weeks.

"23. For the loss of an eye and a foot, 300 weeks.

"24. For the loss of two arms, other than at the shoulder, 400 weeks.

- "25. For the loss of two hands, 400 weeks.
- "26. For the loss of two legs, 400 weeks.
- "27. For the loss of two feet, 400 weeks.
- "28. For the loss of one arm and the other hand, 400 weeks.
- "29. For the loss of one hand and one foot, 400 weeks.
- "30. For the loss of one leg and the other foot, 400 weeks.
- "31. For the loss of one hand and one leg, 400 weeks.
- "32. For the loss of one arm and one foot, 400 weeks.
- "33. For the loss of one arm and one leg, 400 weeks.

"34. For serious disfigurement, not resulting from the loss of a member or other injury specifically compensated, materially affecting the employability of the injured person in the employment in which he or she was injured or other employment for which he or she is then qualified, $66 \frac{2}{3}$ percent of the average weekly earnings for such the period as the court may determine, but not exceeding 100 weeks.

"b. Successive or Concurrent Temporary Total and Permanent Partial Disabilities Resulting from Same Injury. When a permanent partial disability, the number of weeks compensation for which is scheduled in subdivision (a)(3) of this section, follows or accompanies a period of temporary total disability resulting from the same injury, the number of weeks of such the temporary total disability shall not be deducted from the number of weeks payable for such the permanent partial disability.

"c. Concurrent Disabilities. ~~Where~~ If an employee sustains concurrent injuries resulting in concurrent disabilities, he or she shall receive compensation only for the injury which entitled him or her to the largest amount of compensation, but this paragraph shall not affect liability for the concurrent loss of more than one member for which members compensation is provided in the specific schedule.

"d. Loss of Use of Member. ~~In all cases, the~~ The permanent and total loss of the use of a member shall be considered as equivalent to the loss of that member, but in such cases the compensation ~~in and by said specified in the schedule for such injury~~ shall be in lieu of all other

compensation, except as otherwise provided herein. ~~In case of~~ For permanent disability due to injury to a member resulting in less than total loss of use of ~~such the~~ member not otherwise compensated in this schedule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss or total loss of use of the respective member which the extent of the injury to the member bears to its total loss.

"e. Effect of Refusal of Suitable Employment. If an injured employee refuses employment suitable to his or her capacity offered to or procured for him or her, he or she shall not be entitled to any compensation at any time during the continuance of ~~such the~~ refusal, unless at any time, in the opinion of the judge of the circuit court of the county of his or her residence, ~~such the~~ refusal is justifiable.

"f. Maximum and Minimum Compensation Awards. ~~All compensation~~ Compensation provided in this subsection (a) for loss of members or loss of use of members is subject to the same limitations as to maximum and minimum weekly compensation as stated in Section 25-5-68.

"g. Compensation for Permanent Partial Disabilities Not Enumerated. ~~In For~~ all other ~~cases of~~ permanent partial disability disabilities not above enumerated, the compensation shall be 66 2/3 percent of the difference between the average weekly earnings of the ~~workman~~ worker at the time of the injury and the average weekly earnings he or she is able to earn in his or her partially disabled condition, subject to the same maximum weekly compensation as stated in Section 25-5-68. ~~When~~ If a permanent partial disability, compensation for which is not calculated by use of the schedule in subdivision (a)(3) of this section, follows a period of temporary total disability resulting from the same injury, the number of weeks of ~~such the~~ temporary total disability shall be deducted from the number of weeks payable for ~~such the~~ permanent partial disability. Compensation shall continue during disability, but not, ~~however,~~ beyond 300 weeks.

"h. Affidavit of New Employment. ~~In case~~ If the injured employee leaves the services of the employer for whom he or she was working at the time of the accident and accepts employment elsewhere, he or she shall make and furnish affidavit as to his or her new employment in the manner as required in ~~subdivision~~ subsection (a)(2) of this section.

"i. If, on or after the date of maximum medical improvement, except for scheduled injuries as provided in Section 25-5-57(a)(3), an

injured worker returns to work at the same employer at a wage equal to or greater than the worker's pre-injury wage, the worker's permanent partial disability rating shall be equal to his or her physical impairment and the court shall not consider any evidence of vocational disability. Notwithstanding the foregoing, if the employee establishes that he or she lost his or her employment, the employee may petition within two years thereof for a hearing before the court and the court may consider at that time evidence as to the earnings the employee is or may be able to earn in his or her partially disabled condition. In making this evaluation, the court shall consider the permanent restriction, if any, imposed by the treating physician under Section 25-5-77, as well as, all available reasonable accommodations that would enable the employee in his or her condition following the accident or onset of occupational disease to perform jobs that he or she in that condition otherwise would be unable to perform, and shall treat an employee able to perform with such accommodation as though he or she could perform without the accommodation. Nothing contained in this section shall be construed as having any effect upon any evidentiary issues or claims made in third-party actions pursuant to Section 25-5-11.

"(4) PERMANENT TOTAL DISABILITY.

"a. Amount, Duration, and Payment of Compensation. For permanent total disability, as defined in paragraph d of this subdivision, the employee shall receive 66 2/3 percent of the average weekly earnings received at the time of the injury, subject to a maximum and minimum weekly compensation as stated in Section 25-5-68; provided, that, Notwithstanding the foregoing, if at the time of injury the employee was receiving earnings of less than the minimum as stated in Section 25-5-68, then he or she shall receive the full amount of his or her earnings per week. This compensation shall be paid during such the permanent total disability, as defined in said paragraph d. of this subdivision. Payment of such the compensation shall be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree. Such The payments, with the approval of the circuit judge or by the agreement of the parties, may be made monthly, quarterly, or otherwise as the parties may agree. Payments for permanent total disability shall not be ordered to be paid in a lump sum without the consent of both the employer and the employee.

"b. Alteration, Amendment, or Revision of Compensation. At any time, the employer may petition the circuit court ~~which~~ that awarded or approved compensation for permanent total disability to alter, amend, or revise the award or approval of ~~such the~~ compensation on the ground that as a result of physical or vocational rehabilitation, or otherwise, the

disability from which the employee suffers is no longer a permanent total disability and, if the court is so satisfied after a hearing, it shall alter, amend, or revise the award accordingly. If compensation for permanent total disability is being paid pursuant to a written agreement between employer and employee without ~~court~~ approval, the employer may make application to a circuit court that would have had jurisdiction to award ~~such~~ the compensation to the employee to alter, amend, or revise the agreement on such grounds. If an employee is receiving benefits for permanent total disability other than as a result of an award or a written agreement between the employer and employee and if the employer terminates the payment of ~~such~~ the benefits, the employee may, within two years of the last payment, petition the court to reinstate ~~such~~ the benefits and, upon a showing that ~~such~~ the permanent total disability still exists, shall be entitled to have ~~such~~ the benefits reinstated effective the date of the last payment.

"c. Employees in Public Institutions. In case an employee, who is permanently and totally disabled, becomes an inmate of a public institution, ~~then~~ no compensation shall be payable unless ~~he has the~~ the employee has wholly dependent on him or her for support a person or persons named in Sections 25-5-61 and 25-5-62, whose dependency shall be determined as if the employee were deceased, in which case the compensation provided for in this subdivision shall be paid for the benefit of ~~such~~ the person so dependent, during dependency, in the manner so ordered by the court, while the employee is an inmate in ~~such~~ the institution; ~~provided, however, that nothing.~~ Nothing contained herein shall be construed to deprive a permanently and totally disabled employee who has no ~~dependents~~ dependent named in Sections 25-5-61 and 25-5-62 from receiving benefits to which he or she would otherwise be entitled if ~~said~~ the employee, although an inmate of a public institution, is paying or on whose behalf funds are paid from any source to ~~said~~ the public institution the normal and customary charge for the services rendered by ~~said~~ the public institution. Normal and customary charge shall mean that charge actually made by the public institution to persons able to pay for the services rendered them whether said charge actually covers the expense of the upkeep of ~~said~~ the inmate or not. ~~In the event said~~ If the employee has had a guardian appointed by a court of competent jurisdiction, ~~said workmen's~~ the workers' compensation payments shall be directly paid to ~~said~~ the guardian.

"d. Definition. The total and permanent loss of the sight of both eyes or the loss of both arms at the shoulder or any physical injury or mental impairment resulting from an accident, which injury or impairment permanently and totally incapacitates the employee from working at and being retrained for gainful employment, shall constitute prima facie

evidence of permanent total disability and but shall not constitute the sole basis on which an award of permanent total disability may be based; provided, that any employee whose disability results from such the injury or impairment and who shall have refused to undergo physical or vocational rehabilitation, or to accept reasonable accommodation shall not be deemed permanently and totally disabled.

"e. Second Permanent Injuries Generally. If an employee has a permanent disability or has previously sustained another injury than that in which ~~he~~ the employee received a subsequent permanent injury by accident, ~~such as is specified in the provisions of this section defining permanent injury,~~ he the employee shall be entitled to compensation only for the degree of injury that would have resulted from the latter accident if the earlier disability or injury had not existed.

~~"f. Second Permanent Injury Resulting in Permanent Total Disability Where First Injury Not in Same Employment. If an employee receives a permanent injury as specified in this section after having sustained another permanent injury other than in the same employment, and if the combined effect of the previous and subsequent injury results in permanent total disability, compensation shall be payable for permanent total disability. Compensation for such permanent total disability shall be paid by the employer to the extent that such employer would have to pay compensation for the degree of injury that would have resulted from the accident if the earlier disability or injury had not existed, and the remainder of the amount of such compensation after the completion of such payments by the employer shall be paid by the director of industrial relations as trustee from any amounts from time to time standing to his account as such trustee in the second injury trust fund; provided, that in order to qualify for benefits from the second injury trust fund, the employer must have had prior knowledge of the previous injury of the employee, and such previous injury must have been of a disabling nature which adversely affected the employability of the employee.~~

"g f. Second Permanent Injury in Same Employment Resulting in Permanent Total Disability. If an employee receives a permanent injury as specified in this section after having sustained another permanent injury in the same employment, and if the previous and subsequent injuries result in permanent total disability, compensation shall be payable for permanent total disability only.

"h g. Concurrent Compensation Payments. If an employee received an injury for which compensation is payable while he or she is still receiving or entitled to receive compensation for a previous injury in

the same employment, he or she shall not at the same time be entitled to compensation for both injuries, unless the later injury is a permanent injury, ~~such~~ as specified in this section, but he or she shall be entitled to compensation for that injury and from the time of that injury which will cover the longest period and the largest amount payable under this article and Article 2 4 of this chapter.

"If an employee receives a permanent injury as specified in this section, after having sustained another permanent injury in the same employment, he or she shall be entitled to compensation for both injuries, subject to ~~the provisions of~~ paragraph e. of this subdivision, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation, and in no case for permanent partial disability exceeding 700 weeks.

"i h. Effect of Rehabilitation or Recovery on Permanent Total Disability Benefits. ~~In the event~~ If an employee who is receiving benefits for permanent total disability shall, as a result of physical or vocational rehabilitation or otherwise, obtain gainful employment, the obligation to pay permanent total disability benefits shall thereupon terminate; provided, that at any time that the employee's weekly wage from ~~such~~ the employment shall be less than the employee's average weekly wage at the time of injury, the employer shall remain obligated to pay to the employee as compensation an amount equal to 66 2/3 percent of the difference, subject to each of the following limitations:

"1. The employer's liability for the payment of 66 2/3 percent of ~~such~~ the difference shall continue for 200 weeks from the date of reemployment or 300 weeks from the date of injury, whichever is the longer period;.

"2. In no event shall the amount of weekly benefits paid by the employer to the employee exceed the weekly benefit the employee was receiving for permanent total disability; ~~and~~.

"3. No payments shall be due for any week the employee earns as much as or more than his or her average weekly wage at the time of injury. If the employee who obtains gainful employment suffered a permanent partial disability as specified in subsection (c), paragraph 1, of this section, the total amount of compensation paid for permanent total disability shall not be less than that amount which would have been payable for ~~such~~ the permanent partial disability.

"j i. Affidavit of Gainful Employment. ~~In the event~~ If an employee who is receiving benefits for permanent total disability shall, as

the result of physical or vocational rehabilitation, accommodation, or otherwise, obtain gainful employment with an employer other than with his or her former employer, he or she shall, upon securing such employment, give to his or her former employer an affidavit in writing containing the name of his or her new employer, the place of employment and the amount of wages being received at such the new employment; and, until he or she gives such the affidavit, the compensation for permanent total disability shall cease. The employer for whom such the employee was employed at the time of the accident for which compensation is being paid may also at any time demand of such the employee additional affidavit, in writing, containing the name of his or her employer, the place of his or her employment, and the amount of wages he or she is receiving; and, if the employee, upon such demand, fails or refuses to make and furnish such the affidavit, his or her rights to compensation shall cease until such the affidavit is made and furnished.

"(5) DEATH FOLLOWING DISABILITY. ~~In case a workman sustained~~ If an employee sustains an injury occasioned by an accident arising out of and in the course of his or her employment and, during the period of disability caused thereby, death results proximately therefrom, all payments previously made as compensation for such the injury shall be deducted from the compensation, if any, due on account of death. If ~~a workman~~ an employee who ~~has sustained~~ sustains a permanent partial or permanent total disability, the degree of which has been agreed upon by the parties or has been ascertained by the court, and death results not proximately therefrom, the employee's surviving spouse ~~and/or~~ or dependent children or both shall be entitled to the balance of the payments which would have been due and payable to the ~~workman~~ worker, whether or not the decedent employee was receiving compensation for permanent total disability, not exceeding, however, the amount that would have been due the surviving spouse ~~and/or~~ or dependent children or both if death had resulted proximately from the injury. ~~Except as provided in this subdivision, no benefits shall be payable on account of death resulting, proximately or not proximately,~~ from an injury on account of which compensation is being paid to an employee.

"(6) HERNIA.

"a. Proof. ~~In all claims for compensation for~~ For hernia resulting from injury by an accident arising out of and in the course of ~~his~~ the employee's employment, it must be definitely proven to the satisfaction of the court all of the following:

"1. That there was an injury resulting in hernia,

"2. That the hernia appeared suddenly~~7~~.

"3. That it was accompanied by pain~~7~~.

"4. That the hernia immediately followed an accident~~7~~, and.

"5. That the hernia did not exist prior to the accident for which compensation is claimed.

"b. Treatment. All hernia, inguinal, femoral, or otherwise, ~~so~~ proved to be the result of an injury by accident arising out of and in the course of the employment, shall be treated in a surgical manner by radical operation. ~~In case~~ If the injured employee refuses to undergo the radical operation for the cure of ~~said the~~ hernia, no compensation will be allowed during the time ~~such the~~ refusal continues. If, however, it is shown that the employee has some chronic disease or is otherwise in ~~such~~ physical condition that the court considers it unsafe for the employee to undergo ~~said the~~ operation, the employee shall be paid as otherwise provided in this chapter.

"(b) Computation of compensation; determination of average weekly earnings.-- Compensation under this section shall be computed on the basis of the average weekly earnings. Average weekly earnings shall ~~mean the earnings~~ be based on the wages, as defined in Section 25-5-1(6) of the injured employee in the employment in which he or she was working at the time of the injury during the period of 52 weeks immediately preceding the date of the injury divided by 52, but if the injured employee lost more than seven consecutive calendar days during ~~such the~~ period, although not in the same week, then the earnings for the remainder of ~~such the~~ period, although not in the same week, then the earnings for the remainder of ~~such the~~ 52 weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. Where the employment prior to the injury extended over a period of less than 52 weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, provided results just and fair to both parties will thereby be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of his or her employer or the casual nature or terms of the employment it is impracticable to compute the average weekly earnings as above defined, regard shall be had to the average weekly amount which during the 52 weeks prior to the injury was being earned by a person in the same grade, employed at the same work by the same employer, and if there is no ~~such~~ person so employed, by a person in the same grade employed in the same class of employment in the same district. Whatever allowances

of any character made to an employee in lieu of wages are specified as part of the wage contract shall be deemed a part of his or her earnings.

"(c) Setoff for Other Recovery. In calculating the amount of workers' compensation due:

"(1) The employer may reduce or accept an assignment from an employee of the amount of benefits paid pursuant to a disability plan, retirement plan, or other plan providing for sick pay by the amount of compensation paid, if and only if the employer provided the benefits or paid for the plan or plans providing the benefits deducted.

"(2) The employee shall forfeit to the employer all compensation paid for any period to which is attributed any award of back pay either by a court, administrative agency, arbitration, or settlement, provided, however, social security payments shall not be included herein.

"(3) If an employer continues the salary of an injured employee during the benefit period or pays similar compensation during the benefit period in lieu of workers' compensation benefits, it shall be allowed a setoff in weeks against the compensation owed under this article."

Section 18. Section 25-5-58, Code of Alabama 1975, is amended to read as follows:

"§25-5-58.

"If the degree or duration of disability resulting from an accident is increased or prolonged because of a preexisting injury or infirmity, the employer shall be liable only for the disability that would have resulted from the accident had the earlier injury or infirmity not existed, provided that, if an employee is determined to be permanently and totally disabled, and it is determined that the employee has any residual disability from a prior injury which occurred within five years of the current injury and for which the employee received, or is receiving permanent worker's compensation disability payments, and said residual disability contributes to the employee's permanent total disability, the employer shall be entitled to a monetary credit against the current award of permanent total compensation payments in an amount equal to the net recovery by the employee of said previous permanent worker's compensation disability payments. Unless otherwise agreed, the monetary credit, if any, to the employer shall be evenly apportioned and applied over the life expectancy of the employee."

Section 19. Section 25-5-59, Code of Alabama 1975, is amended to read as follows:

"§25-5-59.

~~"(a) In cases of temporary total or temporary partial disability, no compensation shall be allowed for the first three days after disability, except as provided by section 25-5-77, nor~~ For purposes of this article, except for scheduled injuries as provided in Section 25-5-57(a)(3), compensation for the first three days of disability shall not be payable, nor shall compensation be paid in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in Section 25-5-78.

"(b) Compensation shall begin with the fourth day after disability, and, ~~in the event~~ if the disability from the injury exists for a period as much as 21 days, compensation for the first three days after the injury shall be added to and payable with the first installment due the employee after the expiration of the 21 days. If any installment of compensation payable is not paid without good cause within 30 days after it becomes due, there shall be added to ~~such the~~ unpaid installment an amount equal to ~~10~~ 15 percent thereof, which shall be paid at the same time as, but in addition to, ~~such the~~ installment.

Section 20. Section 25-5-60, Code of Alabama 1975, is amended to read as follows:

"§25-5-60.

"In death cases, where the death results proximately from the accident within three years, compensation payable to dependents shall be computed on the following basis and shall be paid to the persons entitled thereto without administration, or to a guardian or ~~such~~ other person as the court may direct, for the use and benefit of the person entitled thereto.

"(1) PERSONS ENTITLED TO BENEFITS; AMOUNT OF BENEFITS.

"a. If the deceased employee leaves one dependent, there shall be paid to the dependent 50 percent of the average weekly earnings of the deceased.

"b. If the deceased employee leaves two or more dependents, there shall be paid to the dependents $66 \frac{2}{3}$ percent of the average weekly earnings of the deceased.

"c. If one of two or more dependents is a widow or widower,

the compensation may be paid to the widow or widower for the benefit of herself or himself and the dependent child or children. In its discretion and when it considers appropriate to do so, the court shall at any time have the power to determine, without the appointment of any guardian or guardians, what portion of the compensation shall be applied for the benefit of any ~~such~~ child or children and may order the same paid to a guardian or custodian of ~~such~~ the child or children.

"d. Partial dependents shall be entitled to receive only that proportion of the benefits provided for total dependents which the average amount of the earnings regularly contributed by the deceased employee to ~~such~~ the partial dependent, at and for a reasonable time immediately prior to the injury, bore to the total income of the dependent during the same time. If there is one dependent and one or more partial dependents and the dependent is not entitled to the maximum amount of compensation provided in Section 25-5-68, there shall be paid to the partial dependent or partial dependents that percentage of the benefit paid to a full dependent which the contribution of the decedent to the partial dependent's support bears to the total income of the partial dependent; provided, that the compensation payable to ~~such~~ the partial dependent or dependents shall not exceed the lesser of 16 2/3 percent of the decedent's average weekly wage or the difference between the compensation payable to the full dependent and the maximum weekly compensation benefit payable as provided in Section 25-5-68.

"e. If compensation is being paid under this article to any dependent, ~~such~~ the compensation shall cease upon the death or marriage of ~~such~~ the dependent, unless otherwise provided in this article.

"f. Upon the cessation of compensation to or for any dependent, for any cause, the compensation of the remaining dependents entitled to compensation shall, for the unexpired period during which their compensation is payable, be that which would have been payable to them had they been the only persons entitled to compensation at the time of death of the deceased employee.

"(2) MAXIMUM AND MINIMUM COMPENSATION AWARDS. -- The compensation payable in case of death to persons wholly dependent shall be subject to a maximum and minimum weekly compensation as stated in Section 25-5-68, but if at the time of injury the employee receives earnings of less than the minimum stated in Section 25-5-68, then the compensation shall be the full amount of such earnings per week. The compensation payable to partial dependents shall be subject to a maximum and minimum weekly compensation as stated in Section 25-5-68, but if the income loss of ~~said~~ the partial dependents by

~~such~~ the death is less than the minimum weekly compensation stated in Section 25-5-68, then the dependents shall receive the full amount of their income loss. This compensation shall be paid during dependency, not exceeding 500 weeks. Payments shall be made at the intervals when the earnings were payable, as nearly as may be, unless the parties otherwise agree."

Section 21. Section 25-5-66, Code of Alabama 1975, is amended to read as follows:

"§25-5-66.

"In case of the remarriage of a widow of an employee who has another dependent children, the unpaid balance of compensation, which would otherwise become due her, shall be paid to ~~such children~~ the dependent or may, on approval by the court, be paid to some suitable person designated by the court for the use and benefit of ~~such children~~ the dependent. Payment to ~~such~~ that person shall discharge the employer from any further liability."

Section 22. Section 25-5-67, Code of Alabama 1975, is amended to read as follows:

"§25-5-67.

~~"In all cases where~~ If death results to an employee caused by as the result of an accident or an occupational disease arising out of and in the course of his the employee's employment, the employer shall pay, in addition to the medical and hospital expenses provided for in Section 25-5-77, the expenses of burial, not exceeding in amount \$1,000.00 three thousand dollars (\$3,000). ~~In case~~ If a dispute arises as to the reasonable value of the services rendered in connection with the burial, the same shall be approved by the court before payment after such reasonable notice to interested parties as the court may require."

Section 23. Section 25-5-68, Code of Alabama 1975, is amended to read as follows:

"§25-5-68.

~~"(a) With respect to injury or death resulting from an accident occurring before February 1, 1985, the compensation paid under this article shall be not less than, except as otherwise provided in this article, 25 percent of the average weekly wage of the state as determined by the director of industrial relations (rounded to the nearest dollar) pursuant to~~

~~subsection (c) of this section and, in any event, no more than 66 2/3 percent of such average weekly wage of the state.~~

~~"(b) (a) With respect to injury or death resulting from an accident occurring on or after February 1, 1985, the~~ The compensation paid under this article shall be not less than, except as otherwise provided in this article, 27 1/2 percent of the average weekly wage of the state as determined by the director ~~of industrial relations~~ ~~(, rounded to the nearest dollar),~~ pursuant to subsection ~~(c)~~ (b) of this section and, in any event, no more than 100 percent of ~~such the~~ average weekly wage; ~~except that.~~ Notwithstanding the foregoing, the maximum compensation payable for permanent partial disability shall be no more than the lesser of ~~\$220.00~~ two hundred twenty dollars (\$220) per week or 100 percent of ~~such the~~ average weekly wage.

~~"(c) (b)~~ For the purpose of this section, the average weekly wage of the state shall be determined by the director ~~of industrial relations~~ as follows: On or before June 1 of each year, the total wages reported on contribution reports to the unemployment compensation division of the department ~~of industrial relations~~ for the preceding calendar year shall be divided by the average monthly number of insured workers ~~(, which shall be determined by dividing the sum of the number of insured workers reported for each month of the preceding year by 12).~~ The average annual wage thus obtained shall be divided by 52, and the average weekly wage thus determined rounded to the nearest cent. The average weekly wage as so determined shall be applicable for the 12-month period beginning July 1 following the June 1 determination. If ~~such the~~ determination shall not be made on or before June 1, the effective date of the average weekly wage when determined shall be the first day of the month next following 30 days after ~~such the~~ determination is made.

~~"(d) (c)~~ The maximum and minimum weekly benefit shall not be changed on any July 1 or as a result of any annual determination, unless the computation provided for in subsection ~~(c)~~ (b) of this section results in an increase or decrease of ~~\$2.00~~ two dollars (\$2) or more in the amount of either the maximum or minimum benefit.

~~"(e) (d)~~ In no event, except as provided for permanent total disability in subdivision (a)(4) of Section 25-5-57 or except for compensation benefits payable for permanent partial and temporary total disability in connection with a disability scheduled in subdivisions (1) and (3) of subsection (a) of Section 25-5-57, shall the total amount of compensation payable for ~~any an~~ an accident or an occupational disease exceed the product of 500 times the maximum weekly benefit applicable on the date

of the accident.

"~~(4)~~ (c) The minimum and maximum benefits that are in effect on the date of the accident which results in injury or death shall be applicable for the full period during which compensation is payable."

Section 24. Section 25-5-77, Code of Alabama 1975, is amended to read as follows:

"§25-5-77.

"(a) In addition to the compensation provided in this article and Article 4 of this chapter, the employer, where applicable, shall pay the actual cost of the repair, refitting, or replacement of artificial members damaged as the result of an accident arising out of and in the course of employment, and the employer, except as otherwise provided in this act, shall pay an amount not to exceed the actual cost prevailing rate of reimbursement or payment of reasonably necessary medical and surgical treatment and attention, physical rehabilitation, medicine, medical and surgical supplies, crutches, artificial members, and other apparatus as the result of an accident arising out of and in the course of employment, as may be obtained by the injured employee or, in case of death, obtained during the period occurring between the time of the injury and his the employee's death therefrom. If the employee is dissatisfied with the initial treating physician selected by the employer and if further treatment is required, the employee may so advise the employer, and in such event the employee shall be entitled to select a second physician from a panel or list of four physicians selected by the employer. In the event If surgery is required, and if the employee is dissatisfied with the designated surgeon, he or she may so advise the employer, and in such event the employee shall be entitled to select a second surgeon from a panel or list of four surgeons selected by the employer. If four physicians or surgeons are not available to be listed, the employer shall include on the list as many as are available. The four physicians or surgeons selected by the employer hereunder shall not be from or members of the same firm, partnership, or professional corporation. The total liability of the employer shall, unless otherwise provided in this act, be limited to such charges as prevail for similar treatment in the community where the injured employee resides not exceed the prevailing rate of reimbursement or payment for similar treatment in the State of Alabama. Notwithstanding the foregoing, in ascertaining the prevailing rate of reimbursement or payment with regard to participating hospitals and ambulatory surgical centers or outpatient rehabilitation centers, the prevailing rate shall be negotiated with each individual hospital, ambulatory surgical center, or licensed outpatient rehabilitation facility

based on that institution's expenditure for diagnosis and treatment of comparable type cases for the 12-month period immediately preceding the effective date of this act. These rates will be updated every 12 months thereafter. Initial rates shall be established within six months of the effective date of this act. For those non-participating hospitals the prevailing rate shall be determined by a committee. In the first year following the effective date of this act, the committee shall be composed of five members. The director shall appoint one member from the Department of Industrial Relations and two members from the community where the non-participating hospital is located. The non-participating hospital shall appoint two members. This committee shall by a majority vote establish the maximum rates of reimbursement or payment for the non-participating hospital, and the hospital shall be bound for one year by said determined rates of reimbursement or payment for workers' compensation cases. If following the first year after the rates were established by this committee, the hospital is again non-participating, then another committee shall be appointed. This committee shall have three members selected by the non-participating hospital and two members selected by the director. The committee composition shall alternate as above described each year the hospital is non-participating. The total liability of the employer shall not exceed the rates established by the committee. This committee in determining the rates of reimbursement or payments to the hospital may consider such factors as the hospital's size, staffing, medical equipment, and any other factors which the committee may consider relevant. ~~In case~~ If an insurer of the employee or a benefit association has paid or is liable for such the employee's medical, surgical, and hospital service or for a part thereof, or in case if the employee is entitled to the same or a part thereof, from any source whatever by virtue of any agreement or understanding or law, state or federal, without any loss of benefit to the employee, the employer shall not be required in such case to pay any part of such the expense, unless said; If the benefits are insufficient to pay all such the employee's expense, and in such event the employer shall be liable for the deficiency only. All cases of dispute as to the necessity and value of such the services shall be determined by the tribunal having jurisdiction of the claim of the injured employee for compensation.

"(b) ~~The~~ If requested to do so by the employer, the injured employee must shall submit himself to examination by the employer's physician at all reasonable times, if requested to do so by the employer, but the employee shall have the right to have a physician of his or her own selection present at such the examination, in which case the employee shall be liable to such the physician of his or her own selection for his or her services. The employer shall pay for the services of the physician making the examination at the instance of the employer. ~~And~~

~~in case of~~ If a dispute arises as to the injury, or as to the extent of the disability therefrom, the court may, at the instance of either party or of its own motion, appoint a neutral physician of good standing and ability to make an examination of the injured ~~person~~ employee and to report his or her findings to the court, the expense of which examination shall be borne equally by the parties. If the injured employee refuses to comply with ~~any~~ reasonable request for examination, or refuses to accept the medical service or physical rehabilitation, which the employer elects to furnish under ~~the provisions of this chapter~~, ~~his~~ the employee's right to compensation shall be suspended and no compensation shall be payable for the period of ~~such the~~ refusal. ~~Any A~~ A physician whose services are furnished or paid for by the employer, or ~~any a~~ a physician of the injured employee who treats or makes or is present at any examination of ~~any an~~ an injured employee may be required to testify as to any knowledge obtained by him or her in the course of ~~such the~~ treatment or examination as same the treatment or examination related to the injury or the disability arising therefrom. ~~Any such The~~ The physician shall, upon written request of the injured employee or his or her employer and without consent of or notice to the employee or employer not making ~~such the~~ such the request, furnish ~~such the~~ the injured employee or his or her employer a written statement of his or her professional opinion as to the extent of the injury and disability. In all death claims where the cause of death is obscure or is disputed, any interested party may require an autopsy, the cost of which is to be borne by the party demanding the ~~same~~ autopsy. The term 'physicians' shall include medical doctor, surgeon, and chiropractor. ~~Any A~~ A hospital, medical clinic, rehabilitation service, or other person or entity providing treatment to an employee or providing facilities at which the employee receives treatment shall, upon the written request of the employee or of the employer, furnish, at a reasonable cost, the employee or the employer a copy of the records, including X-rays and laboratory reports, relating to ~~such the treatment of the injured employee~~. ~~Such~~ The copy may be furnished without the consent of or notice to the employee or employer not making ~~such the~~ such the request. ~~Any A~~ A physician, hospital, medical clinic, rehabilitation service, or other person or entity providing ~~any~~ written statement of professional opinion or copies of records pursuant to this subsection shall not be liable to any person for ~~any a~~ a claim arising out of the release of medical information concerning the employee.

"(c) If the employer so elects, the employee shall submit to and undergo vocational rehabilitation at the employer's expense through a vocational rehabilitation facility or institution recommended by a vocational rehabilitation specialist, ~~which facility or institution who shall be qualified to render competent vocational rehabilitation service~~. If an employee who is unable in the opinion of the treating physician to return

to his or her former employment shall request vocational rehabilitation and if both a vocational rehabilitation specialist and a treating physician, the cost of whose service is the obligation of the employer under this section, shall express their opinions in writing that in the judgment of each of them vocational rehabilitation is reasonably calculated to restore the employee to gainful employment and is in the best interest of the employee, the cost of ~~such~~ the rehabilitation shall be borne by the employer. ~~Such~~ The cost, where rehabilitation requires residence at or near a facility or institution away from the employee's customary residence, shall include reasonable charges for the employee's necessary board, lodging, and travel.

~~"(d) Refusal of the employee to accept rehabilitation at the employer's request shall result in loss of compensation for each week of the period of refusal.~~

"(d) If an employee refuses, without the consent of the court, to accept vocational rehabilitation at the employer's request, the refusal shall result in loss of compensation for the period of refusal.

"(e) All disputes with regard to vocational rehabilitation may be submitted to the court for resolution.

"(f) The employer shall pay mileage costs to and from medical and rehabilitation providers at the same rate as provided by law for official state travel.

"(g) In a compensable workers' compensation claim, the injured employee shall not be liable for payment of any authorized and compensable medical expenses associated with the workers' compensation claim.

"(h) All undisputed medical reimbursements or payments shall be made within 25 working days of receipt of claims in the form prescribed and approved by the director. There shall be added to any invoice which is not paid within 25 working days an amount equal to 10 percent of the unpaid balance. Notwithstanding the foregoing, after one year from the date of the implementation of the subsection (h), all payments shall be made within 15 working days of receipt of claims. Claim reimbursement forms for physicians licensed to practice medicine shall be approved by both the director and by the Workers' Compensation Medical Services Board. If the board and the director are unable to agree on a standardized claim reimbursement form for physicians within three months following the effective date of this act, then such form shall be established under the provisions of Section 27-1-16, Code of Alabama 1975. If the employer or insurer responsible for payment of the claim

fails to add the additional 10 percent to the claim as required by this section, the director shall assess a civil monetary penalty in the amount of \$500.00 for each such failure against the responsible party, payment of which must be made to the director within 30 days of the notice of assessment. In addition, the person, firm, corporation, or partnership providing the medical service for which payment has been delayed beyond the period specified in this section shall be entitled to recover from the employer or insurer responsible for payment of the claim in the circuit or district courts of this state the full amount of the claim, plus the 10 percent penalty, plus liquidated damages in the amount of one hundred dollars (\$100) for each such claim plus a reasonable attorney's fee to be approved by the court."

Section 25. (a) Any party, including a health care provider, is entitled to a review by a Workers' Compensation Specialist of medical services that are provided or for which authorization of payment is sought if any party or the health care provider has any of the following:

(1) Been denied payment or had the charge reduced for medical services rendered.

(2) Been denied authorization for the payment of services requested or performed when authorization is required by the medical policies of the director.

(3) Been ordered by the director to refund payments received for the provision of medical services.

(b) A party to a medical dispute that remains unresolved after a review of medical services as provided by this section may petition the circuit court for relief.

(c) Notwithstanding the foregoing, disputes relating to the provision of medical services, as defined in Section 45 of this act, or payments therefor, must be resolved according to the dispute resolution mechanism established by the Workers' Compensation Medical Services Board, as established by this act.

Section 26. Section 25-5-78, Code of Alabama 1975, is amended to read as follows:

"§25-5-78.

"Every For purposes of this article only, an injured employee or his the employee's representative ~~shall~~, within five days after the occur-

rence of an accident, shall give or cause to be given to the employer written notice of the accident, and ~~the employee, if he fails to give such notice,~~ if the notice is not given, the employee or the employee's dependent shall not be entitled to physician's or medical fees nor any compensation which may have accrued under the terms of this article and article 2 of this chapter, unless it can be shown that the party required to give such the notice had been prevented from doing so by reason of physical or mental incapacity, other than minority, fraud or deceit, or equal good reason, but no compensation shall be payable unless such the written notice is given within 90 days after the occurrence of the accident or, ~~where~~ if death results, within 90 days after the death."

Section 27. Section 25-5-80, Code of Alabama 1975, is amended to read as follows:

"§25-5-80.

"In case of a personal injury, not involving cumulative physical stress, all claims for compensation under this article ~~and article 2 of this chapter~~ shall be forever barred unless within two years after the accident the parties shall have agreed upon the compensation payable under this article ~~and article 2 of this chapter~~ or unless within two years after the accident one of the parties shall have filed a verified complaint as provided in section 25-5-88. In cases involving claims for lost earning capacity under Section 25-5-57(a)(3)i., following termination of employment as outlined therein, compensation under this article and Article 4 shall be forever barred unless brought within two years of the termination. In case of death, all claims for compensation shall be forever barred unless within two years after death, when the death results proximately from the accident within three years, the parties shall have agreed upon the compensation under this article ~~and article 2 of this chapter,~~ or unless within two years after such the death one of the parties shall have filed a verified complaint as provided in section Section 25-5-88. Where, however, payments of compensation as distinguished from medical or vocational payments have been made in any case, said limitations shall not take effect begin to run until the ~~expiration of two years from the~~ time of making the last payment. In case of physical or mental incapacity, other than the minority of the injured person or his or her dependents, to perform or cause to be performed any act required within the time in this section specified, the period of limitation in any such case shall be extended to become effective two years from the date when such the incapacity ceases."

Section 28. Section 25-5-81, Code of Alabama 1975, is amended to read as follows:

"§25-5-81.

"(a) Commencement of action in circuit court.

"(1) PROCEDURE. -- In case of a dispute between employer and employee or between the dependents of a deceased employee and his employer with respect to the right to compensation under this article and article 2 of this chapter, or the amount thereof, either party may submit the controversy to the circuit court of the county which would have jurisdiction of a civil action in tort between the same parties. Such controversy shall be heard and determined by such judge or judges of said court as would hear and determine a civil action between the same parties arising out of tort, and, in case there is more than one judge of such court, such controversies shall be set and assigned for hearing under the same rules and statutes that civil actions in tort are set and assigned. Such court may hear and determine such controversies in a summary manner. The decision of the judge hearing the same shall be conclusive and binding between the parties, subject to the right of appeal provided for in this article.

"(2) RIGHT TO JURY TRIAL. -- When wilful misconduct on the part of the employee is set up by the employer, ~~as it is provided for in this article,~~ the employer may, upon appearing, demand a jury to hear and determine, under the direction of the court, the issues involved in this defense. If the employer fails to demand a jury ~~upon appearing,~~ the employee may demand a jury to try ~~such the~~ issues by filing ~~his a~~ demand within five days after the appearance of the employer. When a jury is demanded by either party, the court must submit the issues of fact as to ~~wilful~~ wilful misconduct set up by the employer to the jury, for a special finding of the facts subject to the usual powers of the court over verdicts rendered contrary to the evidence or the law, but the judge must determine all other questions involved in the controversy without a jury. Upon setting up ~~such that~~ defense, the employer must serve a copy of the answer, setting up the defense, upon the employee or his or her attorney of record.

"(b) Court deemed open at all times. -- For the purpose of hearing and determining controversies between an employer and employee or the dependents of a deceased employee and the employer, arising under this article and ~~article~~ Article 2 of this chapter, the circuit court shall be deemed always in session.

"(c) Interpleader of adverse claimants to compensation. - - If at any time there are adverse claimants to compensation under this article, the employer, in submitting ~~said the~~ claim to ~~said the~~ circuit court, may

suggest in writing said the claimants, and they shall be required to interplead. Said The court shall determine and order to which claimant or claimants such compensation is justly due, and said the employer, upon complying with the order of such judge, shall be released from the claims of any other claimants thereto.

"(d) Review. -- From such an order or judgment, any aggrieved party may, within 42 days thereafter, appeal to the court of civil appeals Court of Civil Appeals and such the review shall be as in cases reviewed by certiorari. follows:

"(1) In reviewing the standard of proof as set forth herein and other legal issues, review by the Court of Civil Appeals shall be without a presumption of the correctness of the ruling below.

"(2) In reviewing pure findings of fact, the finding of the circuit court shall not be reversed if that finding is supported by substantial evidence.

"(e) Discovery.--Methods of discovery shall be determined and established in rules promulgated by this act and the rules established by the Alabama Rules of Civil Procedure with the limitations of pretrial discovery as set forth below. Additionally, the following rules of discovery shall apply to worker's compensation cases:

"(1) Interrogatories shall not be permitted without leave of court for good cause shown.

"(2) Depositions shall not be permitted without leave of court for good cause shown.

"(3) All written records, reports, and affidavits of medical providers may be submitted to the court without testimony.

"(4) Vocational expert's opinions, reports, and affidavits may be submitted to the court in writing without testimony.

"(5) Physical therapist's records and reports may be submitted to the court without testimony.

"(6) Relevant and material records of the employee and employer, including, but not limited to, payroll records, may be admissible without testimony.

"(7) Certified copies of records, documents, and affidavits shall

be self-authenticating without need of testimony.

"It is the intent of this section that limited discovery shall be available."

Section 29. Section 25-5-83, Code of Alabama 1975, is amended to read as follows:

"§25-5-83.

"By agreement of the parties and with approval of the court, the amounts of compensation payable periodically, under this article and Article 4 of this chapter, may be commuted to one or more lump sum payments. No ~~such~~ commutation shall be approved by the court unless the court is satisfied that it is in the best interest of the employee or the employee's ~~dependents~~ dependent, in case of death, to receive the compensation in a lump sum rather than in periodic payments. In making ~~such~~ the commutations, the lump sum payment shall, in the aggregate, amount to a sum equal to the present value of all future installments of compensation calculated on a six percent basis."

Section 30. Section 25-5-85, Code of Alabama 1975, is amended to read as follows:

"§25-5-85.

"At any time after the amount of ~~any~~ an award has been agreed upon by the parties or found and ordered by the court, a sum equal to the present value of all future installments of compensation calculated on a six percent basis may, where death or the nature of the injury renders the amount of future payments certain, by leave of court, be paid by the employer to ~~any savings~~ a bank or trust company of this state or ~~any~~ a national bank doing business in this state to be approved and designated by the court, and ~~such~~ the sum, together with all interest thereon, shall thereafter be held in trust for the employee or ~~dependents~~ dependent of the employee, who shall have no further recourse against the employer. The payment of ~~such~~ the sum by the employer, evidenced by the receipts in duplicate of the trustees, one of which shall be filed with the probate judge of the county in which the injury or death occurred and the other filed with the clerk of the circuit court, shall operate as a satisfaction of ~~said~~ the award as to the employer, and the trustee designated by the court shall be allowed to pay itself from ~~said~~ the fund a reasonable compensation for acting as ~~such~~ the trustee, which compensation shall be fixed by the court in the order making ~~such~~ the designation. Payments from ~~said~~ the fund shall be made by the trustee in the same amounts and

at the same time as are required in this article of the employer until said the fund, after deducting the trustee's compensation as above provided, and interest shall be exhausted. In the appointment of the trustee, preference shall be given, in the discretion of the court, to the choice of the injured employee or the dependents dependent of the deceased employee ~~as the case may be~~. ~~In the event~~ If the right to receive compensation should terminate on account of death, becoming of age, or marriage, or for any other cause as provided in this article, the balance remaining in said the bank or trust company after such the termination should be returned by them to the employer, his or her successor, or assigns."

Section 31. Section 25-5-86, Code of Alabama 1975, is amended to read as follows:

"§25-5-86.

"For purposes of this article and Article 4 of this chapter:

"(a) (1) In all cases in which If the award, order, or judgment settlement agreement is payable in installments and default has been made in the payment of any an installment, the owner or interested party may, upon the expiration of 30 days from said the default and upon five days' notice to the defaulting employer or defendant, move for a modification of the judgment award or award settlement agreement by ascertaining the cash or present value of same the case, including the 15 percent penalty provision of Section 25-5-59, under the rule of computation contained in Section 25-5-85, and upon which execution may issue; , unless however, the defaulting employer enters may relieve itself of the execution by entering into a good and sufficient bond, to be approved by the circuit judge, securing the payment of all future installments, and forthwith pays all past due installments with interest and penalty thereon since due. Said The bond shall be recorded upon the minutes of the circuit court.

"(b) (2) Claims for compensation, or awards, or judgments, or agreements to pay compensation owned by an injured employee or his or her dependents dependent shall not be assignable and shall be exempt from seizure or sale or garnishment for the payment of any debt or liability. There shall be no right to waive this exemption."

Section 32. Section 25-5-90, Code of Alabama 1975, is amended to read as follows:

"§25-5-90.

"No Unless otherwise provided in this chapter, no part of the compensation payable under this article and Article 4 of this chapter shall be paid to attorneys an attorney for the plaintiff claimant for legal services, unless, upon the application of the plaintiff to a judge of the circuit court, such the judge shall order or approve of the employment of an attorney by the plaintiff; and in such event, the judge, upon the hearing of the complaint for compensation, either by law or by settlement, shall fix the fee of the attorney for the plaintiff for his or her legal services and the manner of its payment, but such the fee shall not exceed 15 percent of the compensation awarded or paid."

Section 33. (a) It is the intent of the Legislature to promote safety education, safety planning, and to provide any needed technical assistance.

(b) The director shall coordinate with the Safe State Program, the safety and health consulting service, to establish a safety program for cooperating with industry to promote safety and provide technical assistance. Emphasis shall be placed on unsafe acts in small industry and high risk industry.

(c) Qualified safety management specialists shall be employed in the Safe State Program to assist employers in developing or improving their safety programs. Safe State Program personnel shall, upon referral by the director of an employer's request, make inspections for safety monitoring and report the resulting findings and recommendations to the employer and to the director.

(d) The Safe State Program shall establish and collect reasonable fees for technical and consultative safety services, that are not required by law, provided to persons requesting the services from or through the Workers' Compensation Division of the Department of Industrial Relations.

Section 34. Section 25-5-110, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 4.
"COMPENSATION FOR OCCUPATIONAL
DISEASES GENERALLY.

"§25-5-110.

"For the purposes of this article, the following terms shall have the meanings respectively ascribed to them by this section:

"(1) OCCUPATIONAL DISEASE. A disease arising out of and in the course of employment, ~~other than~~ including occupational pneumoconiosis and occupational exposure to radiation as defined in articles 5 and 7, respectively, of this chapter subsections 2 and 3, respectively, of this section, which is due to hazards in excess of those ordinarily incident to employment in general and is peculiar to the occupation in which the employee is engaged but without regard to negligence or fault, if any, of the employer. A disease, ¹(including, but not limited to, loss of hearing due to noise), shall be deemed an occupational disease only if caused by a hazard recognized as peculiar to a particular trade, process, occupation, ²or employment as a direct result of exposure, ²over a period of time, ²to the normal working conditions of ~~such the~~ the trade, process, occupation, ²or employment. ~~The term "occupational disease" shall not include accidents within the meaning of articles 3, 5 and 7 of this chapter.~~

"(2) OCCUPATIONAL PNEUMOCONIOSIS. A disease of the lungs caused by inhalation of minute particles of dust over a period of time, which dust is due to causes and conditions arising out of and in the course of the employment, without regard to whether the causes or conditions are inherent in the employment or can be eliminated or reduced by due care on the part of the employer. The term 'occupational pneumoconiosis' shall include, but without limitation, such diseases as silicosis, siderosis, anthracosis, anthrasilicosis, anthracosilicosis, anthraco-tuberculosis, tuberculosilicosis, silico-tuberculosis, aluminosis, and other diseases of the lungs resulting from causes enumerated in this section.

"(3) OCCUPATIONAL EXPOSURE TO RADIATION. Gradual exposure to radiation over a period of time from the use of or direct contact with radium, radioactive substances, roentgen rays (X-rays), or ionizing radiation, arising out of and in the course of the employment and resulting from the nature of the employment in which the employee is engaged, without regard to whether or not the exposure is inherent in the employment or can be eliminated or reduced by due care on the part of the employer.

"(4) NATURE OF EMPLOYMENT. With respect to subdivisions (2) and (3) above, this term shall mean that, as to the industry in which the employee is engaged, there is attached a particular hazard of the exposure that distinguishes it from the usual run of occupations and is in excess of the hazards of the exposure attending employment in general.

"(5) CONTRACTION OF AN OCCUPATIONAL DISEASE. ~~Such~~ This term shall include any aggravation of ~~such the~~ the disease without

regard to the employment in which the disease was contracted."

Section 35. Section 25-5-116, Code of Alabama 1975, is amended to read as follows:

"§25-5-116.

"(a) ~~Where~~ If compensation is payable under this article for an occupational disease other than pneumoconiosis or radiation, the only employer liable, if any, shall be the employer in whose employment the employee was last exposed to the hazards of said the disease. The employer who is liable shall not be entitled to contribution from any other employer of such the employee.

"(b) If compensation is payable for pneumoconiosis or radiation, the only employer liable, if any, shall be the employer in whose employment the employee was last exposed in each of at least 12 months, within a period of five years prior to the date of the injury, to the hazards of the disease and, in addition, any employer who furnished workers' compensation coverage during this period."

Section 36. Section 25-5-117, Code of Alabama 1975, is amended to read as follows:

"§25-5-117.

"(a) In case of the contraction of an occupational disease, as defined in this article, or of injury or disability resulting therefrom, all ~~claims~~ a claim for compensation, as defined in Section 25-5-1, shall be forever barred, unless within ~~one year~~ two years after the date of the injury, as hereinafter defined, the parties shall have agreed upon the compensation payable under this article, or unless within ~~one year~~ two years after the date of the injury, one of the parties shall have filed a verified complaint as provided in Section 25-5-88. In case of death, all ~~claims for compensation~~ the claim shall be forever barred, unless within two years after the death, if death results proximately from the occupational disease, as defined in this article, and occurs within three years of the date of the injury, as hereinafter defined, and unless within one year after such death and death occurs within three years of the date of the injury as hereinafter defined, the parties shall have agreed upon the compensation under this article, or unless within ~~one year~~ two years after such death, one of the parties shall have filed a verified complaint as provided in Section 25-5-88. ~~Where~~ If, however, payments of compensation have been made in any case, said the limitations as to compensation shall not take effect until the expiration of ~~one year~~ two years from

the time of making the last payment. In case of physical or mental incapacity, other than the minority of the injured employee, or his or her dependents dependent, to perform or cause to be performed any act required within the time ~~in this section~~ specified in this section, the period of limitation in any ~~such~~ case shall be extended to become effective ~~one-year~~ two years from the date when ~~such~~ the incapacity ceases. No agreement, express or implied, to shorten or to extend ~~said~~ the limitations shall be valid or binding on either of the parties ~~when said if the employment, at the time of said the exposure, is or was subject to the provisions of this article. The date of the injury shall mean, for all purposes of this article, the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease.~~

"(b) For the purposes of occupational diseases other than pneumoconiosis or radiation, 'the date of the injury' shall mean the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease.

"(c) For purposes of pneumoconiosis and radiation, 'the date of the injury' shall mean the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease in each of at least 12 months, within a period of five years prior to the date of the injury."

Section 37. Section 25-5-120, Code of Alabama 1975, is amended to read as follows:

"§25-5-120.

"There shall be no not be a presumption that disablement or death from any cause or infirmity is the result of an occupational disease, nor that an occupational disease will result in disablement or death, and any person claiming compensation or other benefits under this article shall have the burden of establishing that he or she is entitled to such the benefits."

Section 38. Section 25-5-250, Code of Alabama 1975, is amended to read as follows:

"ARTICLE 9.

"ALABAMA WORKMEN'S WORKERS' COMPENSATION
SELF-INSURERS "GUARANTY ASSOCIATION.

"§25-5-250.

"There is created a nonprofit corporation to be known as the 'Alabama ~~Workmen's Workers~~' Compensation Self-Insurers Guaranty Association, Incorporated,' hereinafter referred to as 'the association.' The purpose of the association shall be to create and fund an insolvency fund to assure payment of ~~workmen's workers~~' compensation claims due from self-insuring employers who are members of the association and who become insolvent. The association shall have those powers granted or permitted nonprofit corporations, as provided in Title 10, as amended. In addition, the corporation shall have the power to borrow funds as necessary to carry out its purposes, and to purchase ~~such~~ insurance and reinsurance as is deemed necessary."

Section 39. Section 25-5-251, Code of Alabama 1975, is amended to read as follows:

"§25-5-251.

"(a) All employers who elect to be self-insurers for ~~workmen's workers~~' compensation as provided in ~~section 25-5-8(b), as amended, Article 1~~, other than self-insurers which are governmental entities, or public utilities, shall be members of the association as a condition of their authority to self-insure. Membership shall be sufficient security for self-insurance.

"(b) Membership in the association shall cease when the employer terminates its self-insurance election. However, terminating members shall be and remain liable for the period of time in which they were members of the association and for any subsequent assessments made for that period.

"(c) Membership in the association may be terminated for ~~non-payment~~ nonpayment of assessments.

"(d) The association shall not issue stock and its members shall not, as such, be liable for its obligations."

Section 40. Section 25-5-254, Code of Alabama 1975, is amended to read as follows:

"§25-5-254.

"(a) To the extent necessary to secure funds for the payment of covered claims and costs of administration, the association may levy annual assessments on members of the association at a rate not to exceed ~~\$15.00~~ fifteen dollars (\$15) per ~~\$1,000.00~~ one thousand dollars

(\$1,000) of security amount established by the department for the respective members. Assessments shall be remitted to and administered by the association as provided in the bylaws. The rate of annual assessments against members of the association may vary by duration of membership so that the cumulative contribution rate of recently admitted members becomes the same as previously admitted members.

"(b) If, at any time, the insolvency fund is not sufficient to make the payments or reimbursements then owing, the association may levy a special assessment on members of the association at a rate not to exceed \$15.00 fifteen dollars (\$15) per \$1,000.00 one thousand dollars (\$1,000) of security amount established by the department for each member, but ~~such~~ any special assessment may not be levied more than once in each calendar year.

"(c) No state funds shall be allocated or paid to the association except those funds which may accrue to the association by or through assignments of rights of an insolvent employer. All monies in the fund shall be held in trust and shall not be money or property of the state or the participants in the association."

Section 41. Section 25-5-255, Code of Alabama 1975, is amended to read as follows:

"§25-5-255.

"Upon receipt of the funds assessed on members, the association may set aside funds for the administration of its affairs, and the balance of the funds shall be deposited to an insolvency fund under the following terms:

"~~(a)~~ (1) The fund is created for the purpose of assuring payment of ~~workmen's~~ workers' compensation claims against members of the association who become insolvent; but only those claims which accrue while the insolvent employer is a member of the association and accrue prior to the determination of insolvency or within 30 days thereafter. The obligation of the fund shall be limited to the obligation of the insolvent employer under the ~~Workmen's~~ Workers' Compensation Act Law, in an amount not to exceed 150 percent of the amount of security as determined by the department as of the last annual financial review. The fund shall have all defenses of and shall be subrogated to all rights of the insolvent employer. The fund shall not be liable for any penalties or interest assessed against the employer.

"~~(b)~~ (2) ~~It shall be the duty of the~~ The department of industrial

~~relations to~~ shall determine insolvency of any self-insurer employers, and to notify the association of its determination. Members and directors of the association are specifically forbidden to be given information on the financial condition of any members except the fact of determination of insolvency.

~~"(c) (3)~~ The director ~~of the department of industrial relations,~~ or his or her representative, ~~will~~ shall at all reasonable times have full and free access to the books and records of the association and may audit the association's financial affairs as ~~he or she~~ he or she deems necessary. Should the director deem the balance in the insolvency fund insufficient to meet projected liabilities, ~~he or she~~ he or she shall inform the board of directors, and after consultation with them, ~~he or she~~ he or she shall set the amount which ~~he or she~~ he or she deems sufficient and the board of directors shall levy assessments as provided herein to secure that amount.

~~"(d) (4)~~ The association shall be subrogated to all rights of any claimant whose claim it pays and shall have a claim against the member employer for all ~~such~~ claims and expenses of administration.

~~"(e) (5)~~ If at any time the insolvency fund is insufficient to pay all claims then owing, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as sufficient funds become available."

Section 42. A new Section 25-5-18 is added to the Code of Alabama 1975, to read as follows:

§25-5-18.

Director's duty to provide upon request information regarding the contents of this chapter.

Upon request, the director shall provide information concerning the contents of this chapter by establishing a toll-free telephone access to the Department of Industrial Relations. This access shall be established to provide the employer, employee, or other interested party answers to questions concerning the worker's compensation system. It shall be utilized to assist all interested parties in understanding their rights and responsibilities under this chapter and to assist all interested parties in protecting their rights under this chapter. The department shall supply information concerning rights available under the worker's compensation process, but the department shall not be an advocate for any party nor shall the department refer any person or party to a specific law firm or attorney.

Section 43. (a) The director shall adopt rules as necessary for the implementation and enforcement of this act. The director may prescribe rules and regulations for the purpose of conducting continuing education seminars for all personnel associated with workers' compensation claims and to collect registration fees in order to cover the related expenditures. The director may adopt rules and regulations setting continuing education standards for workers' compensation claims personnel employed by insurance companies and self-insured employers and groups.

(b) The director shall file annually with the Governor and the presiding officer of each house of the Legislature a complete and detailed written report accounting for all funds received and disbursed during the preceding fiscal year. The annual report must be in the form and reported in the time provided by law.

(c) The director shall establish reasonable charges to recover expenses for services not required by law or rule provided to persons requesting same from the workers' compensation division.

(d) The director shall appoint advisory committees on workers' compensation matters deemed necessary. The director shall appoint a hospital advisory committee consisting of three administrators who are members of the Alabama Hospital Association, an advisory committee consisting of three chiropractors who are members in good standing with the Alabama State Chiropractic Association, who shall be selected by the director from nominations submitted by the Alabama State Chiropractic Association, an advisory committee consisting of three pharmacists who are members in good standing with the Alabama Pharmaceutical Association who shall be selected by the director from nominations submitted by the Alabama Pharmaceutical Association, and also an advisory committee consisting of three optometrists who are members in good standing with the Alabama Optometric Association who shall be selected by the director from nominations submitted by the Alabama Optometric Association. These committees shall guide the director and make recommendations to ascertain the prevailing rate of reimbursement or payment of medical costs in the State of Alabama. These committees shall make recommendations with regard to the implementation of all other rules and regulations, including but not limited to, utilization review by like peers. These committees shall also advise and guide the director in determining all other rules and regulations required to accomplish the intent of the Legislature in assuring the quality of medical care and achieving medical cost control.

The director shall also appoint a vocational rehabilitation advisory

committee consisting of at least five professional licensed rehabilitation specialists. These rehabilitation specialists shall be selected by the director from nominations from the rehabilitation associations in the state of Alabama, including but not limited to, the Alabama Physical Therapy Association. The committee shall guide the director and make recommendations to ascertain the prevailing rate of reimbursement or payment of rehabilitation costs in the State of Alabama. The committee shall also make recommendations with regard to the implementation of all other rules and regulations, including but not limited to, utilization review, and with regard to rehabilitation policies as provided by this act. The committee shall also advise and guide the director in determining all other rules and regulations required to accomplish the intent of the Legislature in assuring the quality of rehabilitation care and achieving rehabilitation cost control.

The director shall appoint an advisory committee consisting of attorneys who are members in good standing of the Alabama State Bar. This committee shall guide and assist the director in creating and promulgating rules and regulations for the efficient administration of the Workers' Compensation Program.

(e) It is the intent of the Legislature that final reimbursements related to workers' compensation claims be commensurate and in line with the prevailing rate of reimbursement or payment in the State of Alabama, or as otherwise provided in this act. The director shall conduct field audits as necessary to assist the private sector to gain compliance with the legislative intent. The department shall develop administrative rules to facilitate implementation and continuity of the legislative intent of this act. The director shall not establish the prevailing rate of payment or reimbursement, but may collect data which are construed to be statistically significant as defined by an independent, disinterested actuarial consultant. By definition, the prevailing rate of payment or reimbursement is self-defining and self-setting and shall be updated annually.

(f) Insurance carriers and self-insurers, individual and group, are responsible for making appropriate payment for services provided under this act. Unless otherwise provided in this act, an insurance carrier or self-insurer, individual or group, shall not pay more than the applicable prevailing rate of reimbursement or maximum fee for medical services. It is the intent of this section that all payments for medical services rendered by physicians as defined in Section 45 of this act shall be governed exclusively by the provisions of Section 48 of this act and shall not be subject to any other provisions of this act relating to prevailing rate of reimbursement. Insurance carriers and self-insurers,

individual and group, are also responsible for efficient utilization review and medical bill screenings based on a statistically significant basis. To ensure compliance of providers, insurance carriers, and self-insurers, the director may provide by rule for the review and audit of insurance carriers and self-insurers, individual and group, of payments for medical services. The director may maintain a statewide data base from insurance carriers and self-insurers, individual and group, on medical charges, actual payments, and adjudication methods for use in administering this act. The data base will be maintained by an independent non-governmental entity, which is not responsible for the payment of any medical or hospital claims.

(g) Notwithstanding the provisions of subsections (e) and (f) above, neither the director nor any person, firm, corporation, or organization under contract with or acting on behalf of the director shall be authorized to conduct any field audit or to collect from any source any data on medical charges, actual payments, treatment plans, treatment patterns, or adjudication methods concerning any physician licensed to practice medicine in this state, it being the intent of this act that any such activities shall be within the authority of the Workers' Compensation Medical Services Board.

Section 44. (a) All letters, reports, communications, and other matters, written or oral, from employer or employee to each other, to the director, any of his or her agents, representatives, or employees, or to any official or board functioning under this act, which have been written, sent, delivered, or made in connection with the requirements and administration of this act, shall be absolutely privileged. Information obtained from the above mentioned matters shall be held confidential, except to the extent necessary for the proper presentation of the contest of a claim, and shall not be published or open to public inspection in any manner. Any person violating this section shall be fined not less than twenty dollars (\$20) nor more than two hundred dollars (\$200), or imprisoned for not longer than 30 days, or both.

(b) The director may make summaries, compilations, photographs, duplications, or reproductions of any records as he or she may deem advisable for the effective and economical preservation of the information contained therein. The documentation, duly authenticated, shall be admissible in any proceeding under this act if the original record or records would have been admissible therein.

(c) The director may upon specific request therefor, furnish to any public agency a workers' compensation record in his or her custody, if the agency makes payment of a reasonable cost therefor.

(d) At his or her discretion, the director may release information to institutions of higher education, or a federal government corporation upon payment of a reasonable cost therefor, for the purpose of making economic analyses. The institution or federal government corporation must agree in writing that information so obtained shall not be published or released by it to any person in a manner to permit the identification of any specific individual or employing unit.

(e) The director may afford reasonable cooperation with any agency of the United States or any state agency charged with the administration of any workers' compensation laws.

(f) The director may upon specific request release a workers' compensation record or information therein to any public official or to any law enforcement officer if the release is deemed by the director to be necessary for the performance of the official's or officer's duties and upon payment of a reasonable cost therefor in accordance with any regulations the director may prescribe.

(g) Any person who willfully makes a false statement or representation to obtain any information under this section, either for himself or herself or for any other person, who uses any information for any purpose other than in the performance of his or her official duties, or in any other manner misuses the information, shall be guilty of a misdemeanor and upon conviction, shall be punished by a fine of not less than two hundred dollars (\$200) nor more than one thousand dollars (\$1,000), or by imprisonment for not less than three nor more than 12 months, or by both fine and imprisonment.

"WORKERS' COMPENSATION MEDICAL SERVICES BOARD"

Section 45. For the purposes of this new article the following words and phrases have the following meanings:

(1) **BOARD.** The Workers' Compensation Medical Services Board.

(2) **MEDICAL or MEDICAL SERVICES.** Any and all medical or surgical services provided by physicians under this new article.

(3) **PHYSICIAN.** A doctor of medicine or doctor of osteopathy licensed to practice medicine.

Section 46. There is established a Workers' Compensation Medical Services Board composed of five physicians licensed to practice

medicine in the State of Alabama who shall be appointed by the Director of the Department of Industrial Relations. The initial board shall be selected from physicians who are members of the Medical Association of the State of Alabama from a list submitted by the association.

Members of the board shall serve terms of five years. In order that the appointments be staggered, one member shall serve an initial term of six years; one member shall serve an initial term of two years; one member shall serve an initial term of three years; one member shall serve an initial term of four years; and the remaining member shall serve an initial term of five years. Thereafter, successors shall be appointed by the director from among a list of three nominees submitted by the Medical Association of the State of Alabama to serve full five-year terms. A member of the board shall continue to serve beyond the expiration of his or her term of office until his or her successor is legally appointed. Members of the Workers' Compensation Medical Services Board shall be eligible to serve two five-year terms of office in addition to an initial or unexpired term of less than three years, but shall not serve thereafter. Members of the board shall be entitled to receive per diem at the rate of one hundred dollars (\$100) per day for each day or portion thereof spent in the performance of the duties of their office and in addition, shall be reimbursed for expenses of travel in the same manner as employees of the State of Alabama.

The Workers' Compensation Medical Services Board shall function as a part of the State Department of Industrial Relations and shall have the authority, duties, and responsibilities as prescribed in this act. The board shall meet quarterly at a time and place designated by the chairman, and may meet more frequently at the call of the chairman. The board shall elect one of its members as chair who shall serve a term of one year. The board may adopt rules governing its own proceedings. The department shall provide the board with necessary meeting and office space, secretarial and clerical support, reimbursement for travel expenses and per diem as specified in this act. Upon approval of the director, additional funding as required by the board for the employment of consultants, attorneys, and other professional staff necessary to accomplish the purposes and objectives stated in this act may be provided. In addition to any other positions authorized by law, the board may employ two persons who shall serve in the unclassified service of the State of Alabama, provided that the director determines that sufficient funds are available for such positions.

Section 47. The board shall exercise general supervision in all matters related to the provision of medical services provided by physicians as defined in this new article rendered to workers under the

provisions of this act. The duties of the board shall include, but are not limited to, the following:

(1) Study, develop, and implement any necessary and reasonable guidelines for medical services and physician care provided by physicians as defined in this new article, and medical necessity determinations for medical services under this new article.

(2) Study, design, and implement standardized uniform claims processing forms and forms for the reporting of medical information to employers and insurance companies by physicians as defined in this new article.

(3) Study, devise, create, and implement a dispute resolution system for medical services provided by physicians as defined in this new article. The decision of the board shall constitute final administrative action, subject only to judicial review under the Alabama Administrative Procedure Act.

(4) Study, devise, and develop a uniform system of utilization review and quality assurance which shall be applicable to all medical services provided by physicians as defined in this new article and provided to workers herein.

(5) Address and give consideration to those matters referred to it by the director.

(6) The board shall contract with physicians, health care providers, professional associations of physicians, and health-related organizations to provide to the board consultation, and research and development expertise in discharging its duties and responsibilities under this new article. Any contract entered into by the board shall be with the approval of the director.

(7) The board may establish, by regulations promulgated by the department, regional committees of physicians appointed by the board to perform any duties and responsibilities specified by the board in programs established for the delivery of medical services under this act. Members of the regional committees shall be physicians as defined in this new article and shall serve at the pleasure of the board. Physicians as defined in this new article serving as members of the regional committees as constituted under this section shall be granted the same immunities as provided to members of the board under this act and existing state law.

(8) Implementation of this section shall be governed and subject

to the Alabama Administrative Procedure Act. Rules and regulations relating to the duties and authority of the board, enumerated herein, may be promulgated only with the consent of both the director and the board.

Section 48. Within 60 days from the effective date of this act, but not before April 30, 1992, the board shall submit to the Governor an initial schedule of maximum fees for medical services covered by this new article, which schedule shall become effective immediately upon submission to the Governor. The initial schedule of maximum fees shall be established by the board in the manner prescribed in this section. The fee for each service in the schedule shall be exactly equal to an amount derived by multiplying the preferred provider reimbursement customarily paid on April 15, 1992, by the largest health care service plan incorporated pursuant to Sections 10-4-100 to 10-4-115, inclusive, Code of Alabama 1975, by a factor of one point one zero (1.10), which product shall be the maximum fee for each such service. In addition the board may submit to the Governor for approval on or after July 1, 1992, a revised schedule of selected fees for medical services covered by this new article, which fees shall not exceed the fees established in the initial schedule of fees by more than five percent.

The revisions to the initial schedule of maximum fees submitted by the board to the Governor for approval on or after July 1, 1992, but not individual fees or separate portions thereof, shall be subject to acceptance or rejection by the Governor. If the revisions to the initial schedule of maximum fees are rejected by the Governor, they shall be referred back to the board for further consideration and the initial schedule of maximum fees shall continue to be in effect until the Governor and the board reach agreement. The schedule of maximum fees and any additions, deletions, corrections, or changes thereto shall not be considered a rule or regulation requiring publication under the Alabama Administrative Procedure Act. It is the express legislative intent that the Workers' Compensation Medical Services Board shall have the discretion to establish a system of maximum fees under this section for services rendered by physicians as defined in this new article to employees covered by the Workers' Compensation Law and that the schedule of fees shall replace and supplant traditional competitive market mechanisms in the interest of obtaining quality physician services in a cost effective manner. The board shall annually adjust the schedule of fees established pursuant to this section by increases which shall be no more than the annual increase in the cost of living as reflected by the U. S. Department of Labor consumer price index. The board may, from time to time, add to or adjust the schedule of fees in response to changes in technology and medical practice, subject only to the right of the Governor to accept or reject the addition or adjustment made by the

board, and to refer back to the board for further consideration any additions or adjustments which he or she may reject. The liability of the employer for the payment of services rendered by physicians shall not exceed those maximum fees established by the board and approved by the Governor. The employees shall not be liable to the physician for any amount in excess of the schedule of maximum fees established by the board and approved by the Governor.

Section 49. Notwithstanding any other provisions of this act to the contrary, any employer, workers' compensation insurance carrier, self-insured employer, or group fund, shall have the right to contract with physicians for the provision of medical services to injured workers at any rates, fees, or levels of reimbursement which shall be mutually agreed upon between the physician and such employer, workers' compensation insurance carrier, self-insured employer, or group fund.

Section 50. The Workers' Compensation Medical Services Board, the individual members thereof, the agents, servants, employees, consultants, or attorneys of the board, and any person, firm, or corporation contracting with the board for the specific purpose of implementing the duties, obligations, and responsibilities of the board under this act, shall each be immune from civil liability against the claims of any and all individuals, firms, corporations, institutions, or other entities for any claims of any nature whatsoever arising out of or related to the decisions, opinions, deliberations, reports, or publications which are made, rendered, or entered by the board, the individual members of the board, or the agents, servants, employees, consultants, or attorneys of the board or any person, firm, or corporation contracting with the board which decisions, opinions, deliberations, reports, or publications were made in good faith, without malice, and predicated upon information which was then available to the board.

"PREMIUM INCENTIVES AND OPTIONAL DEDUCTIBLES FOR SMALL EMPLOYERS"

Section 51. (a) For purposes of this new article, "small employer" means an employer who regularly employs fewer than 50 employees.

(b) The Department of Insurance shall promulgate a plan by which all insurance companies writing workers' compensation insurance in this state shall grant a discount to small employers who qualify under this section and by which surcharges are assessed against small employers who experience two or more employee compensable lost-time injuries during a one-year period.

(c) A small employer who has not experienced a compensable employee lost-time injury during the most recent one-year period for which statistics are available shall receive a discount of 10 percent on the amount of the employer's workers' compensation insurance premium.

(d) A small employer who has not experienced a compensable employee lost-time injury during the most recent two-year period for which statistics are available shall receive a discount of 15 percent on the amount to the employer's workers' compensation insurance premium.

(e) A small employer who has experienced one compensable employee lost-time injury during the most recent one-year period for which statistics are available is not eligible for a discount on the amount of the employer's workers' compensation insurance premium.

(f) A small employer who has experienced two or more compensable employee lost-time injuries during the most recent one-year period for which statistics are available shall be assessed a surcharge of 10 percent on the amount of the employer's workers' compensation insurance premium.

Section 52. (a) The Department of Insurance shall require each company or association that writes workers' compensation insurance in this state to offer optional deductible plans to allow policyholders to self-insure for the deductible amount.

(b) Not later than January 1, 1993, the Department of Insurance shall promulgate at least three plans with varying deductible options. In addition, the Department of Insurance by rule shall permit an employer to enter into an agreement with an insurer for a negotiated deductible in excess of the largest promulgated deductible.

(c) The Department of Insurance shall perform an actuarial analysis to determine the amount of rate reduction applicable to policies under this section as opposed to standard policies without a deductible. In subsequent years, the Department of Insurance shall determine the amount of rate reduction according to rate procedures adopted by it. When establishing procedures for the calculation of experience modifiers, the Department of Insurance may allow the exclusion of the claim amounts paid under the deductible by the employer.

(d) A deductible policy must provide that the insurance company or association will make all payments for benefits that are payable from the deductible amount and that reimbursement by the policyholder shall be made periodically, rather than at the time claim costs are incurred.

The Department of Insurance shall promulgate rules that provide for adequate security for reimbursement of the amount paid by the insurance company or association which is payable from the deductible.

(e) The insurance company or association shall service all claims that arise during the policy period, including those claims payable, in whole or in part, from the deductible amount.

(f) A person who is employed by a policyholder who self-insures the deductible amount as provided under this section may not be required to pay any of the deductible amount.

Section 53. All laws or parts of laws which conflict with this act and specifically Section 25-5-16, Sections 25-5-70 to 25-5-75, inclusive, and Sections 25-5-140 to 25-5-180, inclusive, Code of Alabama 1975, are repealed.

Section 54. The term "Alabama Workmen's Compensation Law," as provided for in the Code of Alabama 1975, shall henceforth be known as "Alabama Workers' Compensation Law."

Section 55. This act shall become effective January 1, 1993, upon its passage and approval by the Governor, or upon its otherwise becoming a law. This act shall apply to all compensable claims on or after January 1, 1993.

RECESS

At 5:05 P.M., on motion of Senator deGraffenried, the Senate took a recess subject to the call of the Chair.

At 5:55 P.M., the recess period having expired, the Senate was called to order by Lieutenant Governor Folsom. A quorum of the Senate was present.

FURTHER CONSIDERATION OF SB 122

The Senate proceeded to further consideration of the Bill, SB 122. The question was on the Waggoner substitute for the deGraffenried substitute.

REPORT OF COMMITTEE

Senator Preuitt, Chairperson of the Standing Committee on Rules, reported that the following Bills have been placed on the Consent Cal-

endar for today, to-wit:

By Senators Smith (J) and Bedsole:

S. 305. To appropriate from the general fund of the state treasury the sum of \$1,000,000.00 for the fiscal year ending September 30, 1992, to the Department of Agriculture and Industries Agricultural Development Services Program, which sum shall be allocated to the Boll Weevil Eradication Foundation for use in boll weevil eradication; to provide that such appropriation shall be supplemental.

By Senator Smith (J):

S. 307. To provide further for the subsistence allowance of law enforcement officers to include officers with the Department of Corrections and to amend Section 36-21-2, Code of Alabama 1975.

By Senator Bennett:

S. 308. To amend Section 9-14-29, Code of Alabama 1975, relating to the applicability of the provisions of Article 2 of Chapter 14 of Title 9 of the Code of Alabama 1975, so as to add an exemption for concession operations receiving gross receipts of \$100,000.00 or less annually.

By Senator Little:

S. 6. To provide that any member of the employees' retirement system of Alabama, who, not more than one year prior to becoming a member of the said system, was a member of the judicial retirement fund, may elect to transfer his creditable service and accumulated contributions from the judicial retirement fund to the employees' retirement system.

By Senator Waggoner:

S. 57. To amend Section 41-9-450 of the Code of Alabama 1975, which provides for the Alabama Sports Hall of Fame Board, so as to increase the membership of the Board from ten to fourteen members, and to give the Lieutenant Governor and the Speaker of the House each an appointment to the Board.

By Senator Langford:

S. 14. To permit the State Youth Services Director to appoint

or employ persons to serve as police officers for the Department of Youth Services and specify the powers and duties of the officers.

By Senator Ghee:

S. 27. To amend Section 16-52-12 of the Code of Alabama 1975, as amended, relating to the powers of law enforcement officers on the campus of Jacksonville State University and criminal procedure for certain offenses committed on the grounds and in buildings of the university, so as to allow process through the nearest municipal as well as district court.

By Senator Ghee:

S. 28. Relating generally to crimes involving child abuse; to amend section 26-15-3, Code of Alabama 1975, relating to acts of abuse by a responsible person upon a child under the age of 18 years, so as to define further such acts and to prescribe a felony penalty and a misdemeanor penalty for such defined prohibited acts; and to provide for the new offense of sexual torture, to define the offense, and to provide a felony punishment for such offense.

By Senator Bolling:

S. 89. Relating to the reimbursement of mandated training costs when one governmental entity hires certain employees from another governmental entity within a certain period, and to amend Section 36-21-7 of the Code of Alabama 1975.

Senator Preuit, Chairperson of the Standing Committee on Rules, reported that the following Bills have been returned to the end of the Regular Calendar for today, to-wit:

By Senators Bedsole, Dixon, and Parsons:

S. 254. To amend Sections 15-23-3, 15-23-4, and 15-23-17, Code of Alabama 1975, relating to the Crime Victims Compensation Commission; to change the name of the Commission to the Crime Victims Commission; to increase the per diem of commission members; and to further provide for assessments.

By Senators Mitchem, Ellis, Smith (B), Preuit, Hale, Bolling, Waggoner, Owens, Little, Bailey, Dixon, Dial, Windom, and Smith (J):

S. 109. Relating to the licensure and regulation of persons in

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the home building industry by examination and issuance of licenses; to create the Home Builders Licensure Board and to impose licensing fees and penalties for violations of this act.

FURTHER CONSIDERATION OF SB 122

The Senate proceeded to further consideration of the Bill, SB 122. The question was on the Waggoner substitute for the deGraffenried substitute.

REPORT OF SECRETARY

Mr. President:

In accordance with the provisions of Joint Rule 5 of the Senate and House of Representatives, I respectfully report the following Bill and Senate Joint Resolutions delivered to the Governor, with the date and hour of delivery, to-wit:

SB 64

SJR 33

SJR 39

SJR 9

SJR 37

Delivered to the Governor, March 10, 1992, at 3:05 P.M.

McDOWELL LEE,
Secretary of Senate.

SECRETARY'S REPORT

The foregoing report of the Secretary was read and ordered spread upon the Journal.

ADJOURNMENT

At 5:58 P.M., on motion of Senator Foshee, in accordance with Senate Resolution heretofore adopted, and pending further consideration of the Bill, SB 122, the Senate adjourned until Wednesday, March 11, 1992, at 11 o'clock A.M.

Yeas 15 Nays 13

Yeas:

Senators:

Bedsole, Bennett, Campbell, Corbett, Ellis, Figures, Foshee, Langford, Lindsey, Owens, Parsons, Preuitt, Sanders, Smith (B), and Windom -15

Nays:

Senators:

Bailey, Barron, Bolling, deGraffenried, Denton, Dial, Dixon, Floyd,
Ghec, Hale, Lipscomb, Little, and Waggoner

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